

# ZONING ORDINANCES

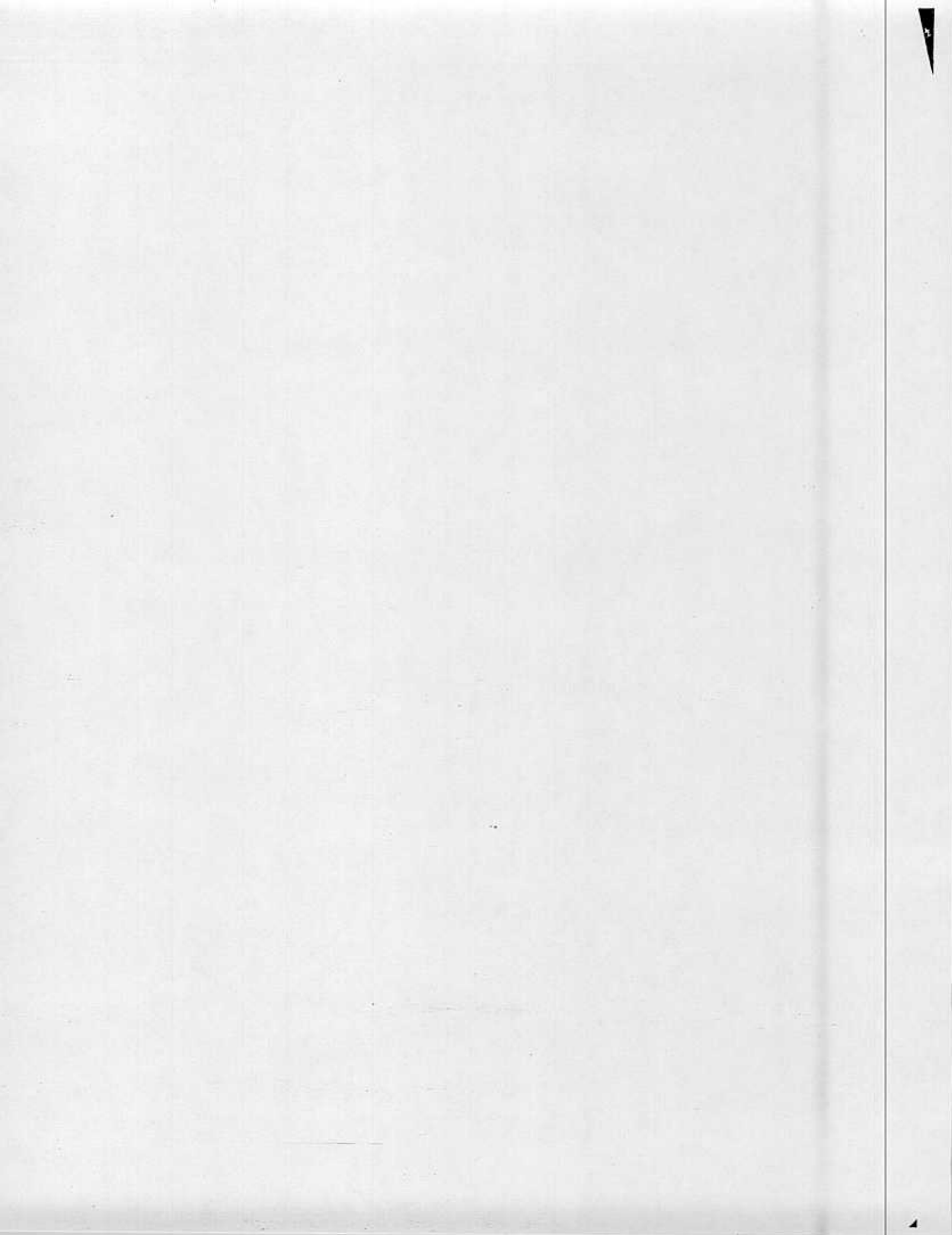
**CITY OF**  
**SALEM, MASSACHUSETTS**



**MUNICIPAL CODE CORPORATION**

**Tallahassee, Florida**

**1991**



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## SALEM ZONING ORDINANCE

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## ARTICLE I. PURPOSE

### Sec. 1-1. Purpose.

(a) For the purpose of promoting the health, safety, convenience, morals or welfare of the inhabitants of Salem, the zoning regulations and restrictions of this ordinance, ordained in accord with the provisions of Chapter 40A of the General Laws and, in the case of signs, ordained in addition in accord with the provisions of Section 29 of Chapter 93 of the General Laws, are designed among other purposes to lessen congestion in the streets; to preserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the city; and to preserve and increase its amenities, to preserve and protect the water supply, open space and conservation of natural resources, to prevent the pollution of the environment and community blight, to ensure housing for all income levels and compliance with the master plan of the City of Salem.

(b) It is recognized that the provision of municipal facilities and services must accompany residential development and that such costs must be borne by the city in which such development takes place, despite the ability of the community to financially support such growth or the present adequacy of its existing municipal systems. A phased development regulation is required which will allow development to proceed in conjunction with community plans as set forth in the official map, capital improvements program, master plan, laws, ordinances and regulations and other studies. Such a phased development regulation will act to:

- (1) Coordinate residential development with the expansion of municipal facilities;
- (2) Protect and enhance the historic and natural resources of the community;
- (3) Support a policy for balanced fiscal planning as determined by the master plan and capital improvements program. Therefore,

in order to meet such goals, the phased development regulation amendment contained herein will act to phase growth in a manner consistent with the aims of the master plan, capital improvements program and other planning documents, as well as with the purposes set forth in the Zoning Enabling Act, Chapter 40A of the General Laws of the Commonwealth of Massachusetts, which empowers a city to "facilitate the adequate provision of transportation, water, sewerage, schools, parks and other requirements" and to "encourage the most appropriate use of land throughout the city . . . ."

### Sec. 1-2. Declared minimum requirements.

In interpreting and applying the provisions of this ordinance, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

### Sec. 1-3. Effect of more restrictive requirements.

This ordinance shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws but shall prevail notwithstanding such provisions which are less restrictive.

## ARTICLE II. DEFINITIONS

### Sec. 2-1. General rules.

For the purposes of this ordinance, the following general rules shall be adhered to in interpreting certain commonly used words:

- (1) The word *person* includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- (2) The word *shall* is mandatory; the word *may* is permissive.
- (3) The words *used* or *occupied* include the words *intended*, *designed* or *arranged to be used or occupied*.
- (4) The word *lot* includes the words *plot* or *parcel*; the word *building* includes the word *structure*, and the word *land* includes the word *marsh*.
- (5) The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.

### Sec. 2-2. Selected terms and words.

(a) Words and/or terms not specifically defined hereinafter in this section shall be defined in accordance with:

- (1) *The Dictionary of Architecture* (latest edition), edited by Henry H. Saycor and published by John Wiley & Sons, Inc., New York; and
- (2) If words and/or terms used herein are not listed in the architectural dictionary, the definition shall be in accordance with the latest edition of *The Merriam-Webster Unabridged Dictionary*, edited by G. & C. Merriam Co. and published by G. & C. Merriam Co., Springfield, Massachusetts.

(b) For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows:

*Accessory building or use:* A building or use on the same lot with, and of a nature customarily

incidental and subordinate to, the principal building or use.

*Alterations, structural:* Any change or rearrangement in the supporting members of a building, such as bearing walls, columns, beams or girders.

*Amusement arcade:* Any lot licensed to maintain three (3) or more commercial amusement devices that are regulated by Section 177A of Chapter 140 of the General Laws.

*Amusements, commercial:* Any amusement device licensed under the provision of Massachusetts General Laws, Chapter 140, Section 177A.

*Automobile service station:* Any area of land, including structures thereon, used as a retail place of business engaged in supplying goods and services essential for the normal operation of a motor vehicle, including the dispensing of gas and oil, the servicing and replacement of tires, batteries and other automobile accessories and washing and lubricating services, but not including body and fender work, painting or major motor repairs.

*Building:* Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

*Building, attached:* A building having one (1) portion completely separated from another portion by a division wall without openings.

*Building, detached:* A building, usually an accessory building, having no direct attachment to the principal building on the lot.

*Building line:* The line of a building face, which face shall include cornices projecting more than twelve (12) inches, balconies, sun parlors, covered porches and entrances, whether enclosed or unenclosed, but shall not include steps.

*Building, principal:* A building in which is conducted the main or principal use of the lot on which said building is situated.

*Capital improvements program:* The capital improvements program shall be prepared by the planning board, assisted by the planning department, and approved by the mayor and the city council. This capital improvements program shall be in

seven-year incremental periods of effectiveness, not to exceed a total of twenty-one (21) years, for the development of the city in accord with the master plan and official zoning map in order to provide for maximum orderly, adequate and economical provision of transportation, water, sewerage, drainage, parks and recreation, schools, municipal facilities and structures and other public requirements.

*City:* The City of Salem.

*Clinic, medical or dental:* A building or buildings having facilities for diagnosis and minor treatment of humans, as differentiated from hospitals. The building may have doctors' offices, x-ray rooms, laboratories, operating room for minor surgery, kitchen and diet kitchen facilities. The building will primarily be used for "out patients" or ambulatory patients and not for convalescent patients. However, not more than ten (10) beds may be provided for patients under diagnoses; for occupancy not to exceed four (4) days.

*Convalescent or nursing home:* As defined by Section 71 of Chapter III of the General Laws: A convalescent or nursing home is defined as any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three (3) or more persons admitted thereto for purposes of nursing or convalescent care.

*Developer:* Any person who, having an interest in land, causes it directly or indirectly to be used for residential development; or who directly or indirectly sells, leases or develops or offers to sell, lease or develop or advertises for sale, lease or development any lot, plot, parcel, site, unit or interest for residential use.

*Development permit:* A permit to be issued to a developer by the planning board granting the right to develop a given parcel of land for residential use after said parcel has been approved for such

*Development use, residential:* The erection or construction of dwellings on any plots, lots or parcels of land or any portion thereof.

*Dormitory:* A building having facilities to house persons in single rooms or double rooms with common toilet and bathing facilities. The building may also have common rooms, recreation rooms, self-service laundry facilities and snack kitchens.

*Drive-in restaurants or snack bars:* Any eating establishment where commodities are consumed on the premises but outside the principal building.

*Dwelling:* A building designed or used as the living quarters for one (1) or more families.

*Dwelling, multi family:* A building designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

*Dwelling, multi family, garden type:* A building designed for or occupied by three (3) or more families, but not more than eighteen (18) families, with separate housekeeping and cooking facilities for each. The buildings will further conform to the requirements of section 5-3(d)(5) herein. The terms "town houses," "row houses," "attached houses" and like terms shall be interpreted as being synonymous with the term "multifamily, garden type."

*Dwelling, single-family:* A detached building designed for or occupied by one (1) family only.

*Dwelling, two-family:* A building designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each. A so-called duplex dwelling, even though having two (2) separate entrances and street numbers, shall be construed as being a single building.

*Dwelling unit:* A building or portion thereof providing complete housekeeping and cooking facilities for one (1) family.

*Family:* One (1) or more persons occupying a dwelling unit and living together as a single non-profit housekeeping unit; provided that a group of

*Garage, private:* An enclosed space for the parking or temporary storage of one (1) or more automobiles, except that one (1) space may be used

for the automobile of a nonresident of the premises.

*Historic carriage house:* An accessory or out-building, originally built to house carriages, horses, or for use as a barn, that has been in existence since 1900 at its present location.

*Hospital:* A building in which physical and mental ailments of human beings are treated, including convalescent care, as differentiated from clinics.

*Hotel, motel or inn:* A building containing rooms rented or hired out, or designed to be rented or hired out, for sleeping purposes by guests. A general kitchen, dining room, drugstore or newsstand, intended primarily for serving the building's occupants and only incidentally the public, may be provided within the building or in an accessory building.

*Lot:* A parcel of land occupied or designed to be occupied by a principal building and the accessory buildings or uses customarily incident to the principal building, including such yards and other open spaces as are arranged and designed to be used with such buildings. Such lot shall have frontage on an improved public street and may consist of a single lot of record, a portion of a lot of record, or a combination of such lots or portions of lots of record, provided that such lot is used for only one (1) principal use.

*Lot, corner:* A lot which has an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines tangent to the foremost points of the side lot lines intersect at an interior angle of less than one hundred thirty-five (135) degrees.

*Lot of record:* A lot which is part of a subdivision recorded in the registry of deeds or the land court or a lot or parcel described by metes and bounds, the description of which has been so recorded.

*Lot, through:* A lot other than a corner lot with frontage on more than one (1) street.

*Marina:* A waterfront area having a dock or mooring facilities for boats for rental purposes; fuel and oil for boats only may be sold on the

premises. Shore facilities similar to motels may occupy contiguous land areas.

*Open air motion picture theater:* An open air (covered or uncovered with no sidewalls) parking area for vehicles where motion pictures are projected onto a large uncovered screen. The projection and sound equipment shall be housed in an enclosed structure.

*Planning board:* The planning board of the City of Salem as established by Chapter 41, Section 70 of the General Laws.

*Planning department:* The planning department of the City of Salem.

*Preliminary application:* An application which may be submitted by a developer prior to formal application for a development permit in order that a given parcel can be reviewed in relation to the standards of issuance for residential development contained herein.

*Repairs:* Work of a reconstruction or renewal nature on any existing part of a building or structure but excluding a structural alteration.

*Rest home:* As defined in Section 71 of Chapter III, as amended by Chapter 285 of the Acts of 1963: A rest home is defined as any institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing care, incident to old age, to three (3) or more persons over sixty (60) years of age who are ambulatory but need supervision or medical care but do not need professional nursing services.

*Right-of-way line:* A line separating a public street or way from a lot.

*Sign:* Any device designed to inform or attract the attention of persons not on the premises on which such device is located, whether such device is a separate structure or object or attached to or painted on another structure or object.

*Special permit use:* A use which would not be appropriate generally or without restriction throughout the district but which, if controlled in a neighborhood, would promote the public health, safety, convenience, morals and welfare of the city's inhabitants.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between any floor and the ceiling above it.

**Story, half:** A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

**Street:** A public or private way which affords the principal means of access to abutting properties.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**Swimming pool:** An artificial pool, uncovered or enclosed, used for recreational swimming and not less than twenty-four (24) inches deep nor having a surface area of less than two hundred fifty (250) square feet.

**Tourist home:** A dwelling in which overnight accommodations are provided or offered to transient guests for compensation. Such dwelling shall not have more than six (6) rooms for hire, and the rooms shall not accommodate more than two (2) persons each. No meals shall be served to guests.

**Trailer:** A vehicle used or designed to be used for living purposes. The terms "travel trailer," "pickup coach" "pickup camper," "motorized camper," tent trailer," "mobile home," etc., or terms of similar import shall be interpreted as having the same meaning as the term "trailer."

**Use:** The specific purpose for which land, or a building and land, is designed, arranged, intended, or for which it is or may be occupied or maintained.

**Variance:** A relaxation of the terms of this ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

**Veterinary hospital (animal clinic):** A building whose sole use will be the medical or surgical treatment of animals, reptiles or birds. Patients may be boarded on the premises not longer than twenty (20) days. The building shall not be used for breeding purposes or as a kennel.

**Waterfront boat yard:** An open area where boats may be stored and/or repaired. Appurtenant structures for housing repair shops and general storage may be allowed. Painting materials may be stored and sold in the yard. No fuel or oil shall be stored or sold. The yard must have direct frontage on navigable waterways.

**Waterfront yacht club (clubhouse):** A structure housing facilities for a nonprofit club whose members are primarily interested in recreational yachting activities. The clubhouse shall occupy land directly fronting on the waterfront. The structure may have general recreational facilities, toilet rooms, kitchen, dining room and general storage rooms. There shall be no bedrooms or sleeping accommodations in the building. Fuel and oil may be sold from dockside facilities, for use on boats only.

**Way:** A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

**Yard:** An open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, provided, however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.

**Yard, front:** An open unoccupied space on the same lot with the principal building between the front line of the building and the right-of-way line and extending the full width of the lot.

**Yard, rear:** An open unoccupied space on the same lot with the principal building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

**Yard, side:** An open unoccupied space on the same lot with the principal building and extending from the front yard to the rear yard.

# ARTICLE III. ESTABLISHMENT OF DISTRICTS

## Sec. 3-1. Types of districts.

For the purposes of this ordinance, the City of Salem is hereby divided into the following types of use districts:

- (1) *R-C Districts:* Residential-conservation districts are intended to be areas in which, by reason of poor drainage, periodic flooding, rocky terrain, steep slope, or the practical difficulties of servicing such areas with public water or sewerage, only agricultural and scattered residential uses should be permitted.
- (2) *R-1 Districts:* One-family residential districts are intended to be those areas in which spacious neighborhoods suitable for healthy, safe, convenient and comfortable family life are to be promoted and protected.
- (3) *R-2 Districts:* Two-family residential districts are intended to be those areas in which buildings are suitable for use by more than one (1) family but are in all other ways similar in character to R-1 Districts.
- (4) *R-3 Districts:* Multifamily residential districts are intended to be those areas whose location is especially convenient to services, facilities or employment for persons and families desiring apartment accommodations.
- (5) *B-1 Districts:* Neighborhood business districts are intended to be those areas containing uses meeting daily shopping needs for the convenience of adjacent residential areas.
- (6) *B-2 Districts:* Highway business districts are intended to be those areas providing sites for businesses whose trade is derived from automobile traffic requiring ample on-site parking and direct access from major streets.
- (7) *B-4 Districts:* Wholesale and automotive business districts are intended to be those areas which serve the wholesale and auto-

mobile business needs related to the central development district.

- (8) *I Districts:* Industrial districts are intended to be those areas highly suitable for industrial use by reason of topography, accessibility and proximity to major transportation systems.
- (9) *B-5 District:* Central development district is intended to be a composite district of major businesses, residential use and civic and cultural use.
- (10) *Business Park Development Districts:* Business Park Development Districts are intended to be those areas within which clean business and industry are developed.

## Sec. 3-2. Zoning map.

(a) The districts established in this article are located and bounded as shown on the map entitled "Zoning Map, City of Salem," adopted August 27, 1965, and as amended and on file in the office of the city clerk. The zoning map, with all explanatory matter thereon, is hereby made a part of this ordinance.

(b) If, in accordance with the provisions of this ordinance and the General Laws, Chapter 40A, amendments are approved by the city council which involve changes in district boundaries or other matter portrayed on the zoning map, such changes shall be made promptly on the zoning map.

(c) Regardless of the existence of purported copies of the zoning map which may be made or published from time to time, the zoning map on file in the office of the city clerk shall be the final authority on the current zoning status of land and water areas, buildings and structures in the city.

Editor's note—Zoning map amendments are listed in a table following Article XII herein.

## Sec. 3-3. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of districts as shown on the zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways



or alleys shall be construed as following such centerlines.

- (2) Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks, or track, of said railroad line.
- (5) Boundaries indicated as following shorelines shall be construed as following such shorelines at mean low water level.
- (6) Boundaries indicated as parallel to or extensions of features indicated in rules (1) through (5) above shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale shown on the zoning map. In case of dispute in measurement, the boundary lines shall be determined by the current official assessor's plan.
- (7) All islands within the city limits of Salem including, but not limited to, the islands known as Great Misery, Little Misery, Baker's, North and South Gooseberry's, Eagle, Cat, Tinker's, Coney, Great Haste, Jeggle, and the Marblehead Rock shall be construed as being in a residential-conservation district, whether or not any such islands are shown or designated on the zoning map.
- (8) Where physical or cultural features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered by rules (1) through (7) above, the inspector of buildings shall interpret the district boundaries.
- (9) The density regulations listed in Tables I and II following Article VI herein shall be construed to apply only to a single lot. Contiguous lots, even if held under the same ownership, shall not be used in computing the requirements of Tables I and II.

**ARTICLE IV. APPLICATION OF  
DISTRICT REGULATIONS****Sec. 4-1. Minimum regulations; uniform applicability.**

Except as hereinafter provided, the regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly:

- (1) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located.
- (2) No building or other structure shall hereafter be erected or altered:
  - a. To exceed the height;
  - b. To accommodate or house a greater number of families;
  - c. To occupy a greater percentage of lot area;
  - d. To have narrower or smaller front yards, side yards, rear yards or other open spaces;than herein specified for the district in which it is located or in any other manner contrary to the provisions of this ordinance.
- (3) No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purposes of complying with this ordinance shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- (4) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

## ARTICLE V. USE REGULATIONS

### Sec. 5-1. Generally.

(a) Uses of land, buildings and structures shall be regulated according to the schedule of uses set out in this article for each type of district. "Permitted uses" are those which shall be permitted in the district at any time. "Special permit uses" are those which may be permitted in the district at the discretion of the board of appeals upon its determination that specific conditions are satisfied. As explained in section 5-3(h)(3), "prohibited uses" are those which shall be specifically prohibited in the City of Salem at any time.

(b) The interpretation of the language of this ordinance with respect to permitted and special permit uses shall be in accordance with the intent stated in section 3-1 for each type of district.

(c) The term "use of land" shall include the interpretation which shall include the restriction that the land cannot be used for the storage or overnight parking of motor vehicles, including trucks, tractors, trailers except as exempted by section 7-1, unless the "permitted use" for buildings in the district allows such parking for the storage of commercial motor vehicles.

### Sec. 5-2. Permitted uses.

(a) *R-C and R-1 Districts.* The following are permitted uses in the residential-conservation and one-family residential districts:

- (1) Detached single-family dwellings.
- (2) Customary agricultural, horticultural and floricultural operations, provided that:
  - a. All the buildings combined shall not occupy a greater percentage of the lot area than listed in Table I following Article VI herein.
  - b. No storage of manure or odor- or dust-producing substance and no building in which farm animals are kept shall be permitted within one hundred (100) feet of any property line.
  - c. No greenhouse heating plant shall be operated within fifty (50) feet of the property line.

d. No products shall be publicly displayed or offered for sale from the roadside.

- (3) Nursery, elementary and secondary schools, public parks and playgrounds, and public libraries.
- (4) Churches and similar places of worship.
- (5) Parish houses, convents and monasteries.
- (6) Institutions of higher education.
- (7) Public and private golf courses.
- (8) Private garages and other accessory uses and buildings, provided that such uses are clearly incidental to the principal use. All the buildings on the lot shall not occupy a greater percentage of the lot area than listed in Table I following Article VI herein.

(b) *R-2 Districts.* The following are permitted uses in the two-family residential districts:

- (1) All uses permitted in R-C and R-1 Districts, except agricultural, horticultural and floricultural operations.
- (2) Two-family dwellings, detached or attached.
- (3) Rooming and boarding of not more than two (2) persons.
- (4) Historic buildings open to the public.
- (5) Museums.
- (6) Private garages and other accessory uses and buildings, provided that such uses are clearly incidental to the principal use.
- (7) Buildings and facilities for elderly housing projects built under the jurisdiction of the Salem Housing Authority and financially aided by either the U.S. Public Housing Administration and/or the Commonwealth of Massachusetts Department of Commerce-Division of Public Housing.

(c) *R-3 Districts.* The following are permitted uses in the multifamily residential districts:

- (1) All uses permitted in R-2 Districts.
- (2) Multifamily dwellings.
- (3) Private garages and other accessory uses and buildings, provided that such uses are clearly incidental to the principal use.

(d) *B-1 Districts.* The following are permitted uses in the neighborhood business districts:

- (1) All uses permitted in R-3 Districts, subject to all the provisions specified for each use.
- (2) Grocery, fruit, vegetable and meat stores, delicatessens.
- (3) Bakeries, provided that all baked goods are sold at retail on the premises only.
- (4) Drugstores.
- (5) Stores selling liquor, beer and wine for consumption off the premises.
- (6) Newsstands and variety stores.
- (7) Dry goods and notions stores.
- (8) Book, stationery and gift stores.
- (9) Florist shops, but excluding greenhouses.
- (10) Hardware stores.
- (11) Banks and savings and loan institutions.
- (12) Barber shops and beauty parlors.
- (13) Laundry, dry cleaning and pressing establishments, provided that not more than five (5) persons are engaged in providing such services.
- (14) Self-service laundries.
- (15) Tailor and custom dressmaking shops.
- (16) Shoe repair shops.
- (17) Radio, television and appliance repair shops, provided that not more than three (3) persons are engaged in performing such services.
- (18) Professional offices, medical and dental clinics.
- (19) Restaurants and other eating places which do not serve alcoholic beverages consumed on the premises and including drive-in restaurants and drive-in snack shops.
- (20) Municipal buildings.
- (21) Off-street parking and loading facilities and other accessory uses and buildings, provided that such uses are clearly incidental to the principal use.

(e) *B-2 Districts.* The following are permitted uses in the highway business districts:

- (1) All uses permitted in B-1 Districts, subject to all provisions specified for such uses, except that all residential uses are prohibited.
- (2) Restaurants and other eating places in which alcoholic beverages may be served on the premises.
- (3) Motels.
- (4) Automobile service stations, subject to the restrictions of section 7-2.
- (5) Off-street parking and loading facilities and other accessory uses and buildings, provided that such uses are clearly incidental to the principal use.
- (6) Supermarkets.
- (7) Retail department stores located within a shopping plaza.
- (8) Other accessory uses located within a shopping plaza.
- (9) Research and development facilities.
- (10) Publishing and printing establishments.
- (11) Warehousing and distribution.
- (12) Laboratories, provided, however, that no noxious odors are emitted.
- (13) General office buildings and other similar and related uses.

(f) *B-4 Districts.* The following are permitted uses in the wholesale and automotive business districts:

- (1) Automobile service stations, subject to the restrictions of section 7-2.
- (2) Automobile, trailer and boat sales and service.
- (3) Plumbing, carpentry and sheet metal shops.
- (4) Printing establishments.
- (5) Sale and storage of building supplies.
- (6) Warehousing.

- (7) Wholesale merchandise brokers and whole-sale storage.
- (8) Service establishments exceeding the requirements for such businesses in B-1 Districts, such as major laundry, dry cleaning and baking establishments.
- (9) Churches and similar places of worship, public and private nursery, elementary and secondary schools, institutions of higher education.
- (10) Off-street parking and loading facilities and other accessory uses and buildings, provided that such uses are clearly incidental to the principal use.
- (11) All uses permitted in B-1 Districts, subject to all provisions specified for such uses, except that all residential uses are prohibited.
- (12) Retail uses relating to the permitted uses in this subsection (f).
- (g) *B-5 Districts.* The following are permitted uses in the central development districts:
  - (1) All uses permitted in B-1 Districts, subject to all the provisions specified for such uses.
  - (2) Other retail stores and service establishments, except those permitted in B-4 Districts.
  - (3) Places of commercial recreation and entertainment, such as theaters and bowling alleys.
  - (4) Restaurants and other eating and drinking places.
  - (5) Nonprofit clubs, lodges and fraternal associations.
  - (6) Philanthropic and charitable institutions.
  - (7) Music and dancing studios.
  - (8) Trade and business schools.
  - (9) Hotels, motels and inns.
  - (10) Business and professional offices.
  - (11) Off-street parking and loading facilities.
  - (12) Buildings and facilities for housing projects built under the jurisdiction of the Salem

Housing Authority and financially aided by either the U.S. Public Housing Administration and/or the Commonwealth of Massachusetts Department of Commerce-Division of Public Housing.

- (13) Retail-wholesale contractors supply establishments, provided, however, that the wholesale operation does not consist of over fifty (50) percent of the business.
- (14) Studios, workrooms and shops of artists, artisans and craftsmen, provided that all products of the artistic endeavor or craft activity are primarily for sale on the premises or by specific off-premises commission from a sponsor or client.
- (15) Publishing and printing establishments.
- (16) One-family, two-family and multifamily residential uses as primary uses in townhouse, row house, flats or multistory arrangements, including high-rises, and as secondary uses in upper floors of structures primarily used for retail, personal service or office purposes.
- (17) Accessory uses generally in support of the above permitted uses.

(h) *I Districts.* The following are permitted uses in the industrial districts: All uses permitted in B-4 Districts, subject to all the provisions specified for such uses.

(i) *Business Park Development Districts.* The following are permitted uses in the Business Park Development Districts:

- (1) General office buildings including business and professional offices and ancillary activities (i.e., cafeteria facilities).
- (2) General storage, warehousing and whole-sale distribution uses.
- (3) Manufacturing, packaging, assembly, re-conditioning, processing, research and testing of the following types of industries: pharmaceuticals and other related products, food and kindred products, apparel, electronics and electrical products, furniture and fixtures, primary and fabricated metal products, box manufacturing, textile

manufacturing, frozen food storage, ice manufacturing, including the storage of new materials and containers used in or incidental to any of the foregoing. Provided that such operations:

- a. Are not specifically prohibited from the City of Salem according to the schedule of prohibited uses in section 5-3(h)(3) herein.
  - b. Are not dangerous by reason of hazard from fire or explosion.
  - c. Are not offensive, detrimental, injurious, noxious or hazardous by reason of causing dust, smoke, odor, fumes, radiation, groundwater discharge, noise, vibration, traffic congestion or other nuisance.
  - d. Are compatible with adjacent nonindustrial uses.
- (4) Laboratories or research facilities, including medical and other research, provided manufacturing is clearly incidental to the operation of the facility, does not exceed fifty (50) percent of the gross floor area of the building and is not offensive, injurious, noxious, detrimental or hazardous by reason of dust, smoke, odor, fumes, noise, radiation, groundwater discharge, traffic congestion or other nuisances.
  - (5) Assembly or packaging of articles not exceeding two hundred (200) pounds in weight, provided that no manufacturing or processing is carried out.
  - (6) Food and beverage manufacturing, bottling or processing or commissary.

#### Sec. 5-3. Special permit uses.

(a) *Generally.* Provided that permission of the board of appeals is obtained in accordance with the procedures and conditions set forth in section 9-4 hereof, buildings and structures may be constructed, altered, enlarged, reconstructed and used and land may be used for one (1) or more of the purposes set out in this section.

(b) *R-C and R-1 Districts.* The following are special permit uses in the residential-conservation and one-family residential districts:

- (1) Professional offices and other home occupations involving the use of a room or rooms

in a dwelling to carry on activities in which goods, wares or merchandise are not commercially created or handled, provided that any such home occupation:

- a. Shall be operated entirely within a dwelling unit, with no display visible from the street.
  - b. Shall be operated only by the residents of the dwelling unit, with not more than one (1) regular employee not residing in the dwelling unit.
  - c. Shall utilize not more than twenty-five (25) percent of the gross floor area of the dwelling unit.
  - d. Shall display not more than one (1) non-electric announcement sign of an area not greater than one and one-half (1½) square feet and attached against the building and not protruding therefrom.
- (2) Marinas.
  - (3) Waterfront boat yards.
  - (4) Waterfront yacht clubs.
  - (5) Outdoor swimming pools which do not conform with the requirements of Article VII, Supplementary Regulations, as amended in this ordinance.
  - (6) Salem Hospital, 91 Highland Avenue, Salem, including private clinics built within one thousand five hundred (1,500) feet of same.
  - (7) North Shore Babies and Children's Hospital, 57 Highland Avenue.
  - (8) Salem Hospital for Chronic Diseases, Memorial Drive, Salem.
  - (9) Dormitory or dormitories as defined in section 2-2 herein. Such dormitories may only be built on land owned by the Salem Hospital or the Commonwealth of Massachusetts State College at Salem.
  - (10) Recreation buildings, including accessory buildings usually constructed with such buildings, with the following provisions:
    - a. All other applicable provisions of the Salem Building Code and zoning ordinance must be complied with.

- b. The ownership of the establishment must be a nonprofit charitable corporation so chartered by the Commonwealth of Massachusetts and so designated by the Internal Revenue Service of the federal government.
  - c. The use of the premises shall be construed as being "public." There shall be no restrictions of any type regarding membership in any organization and/or club by race, creed or color while the building is opened to the "public." However, the premises could be "rented or hired" for "public assemblies" or to other nonprofit corporations of a similar type as the owner, provided, however, that any such "rental" shall not exceed five (5) consecutive days nor more than five (5) days in any month nor more than forty (40) days in any twelve (12) months. A notice stating the intent of this usage must be filed with the city clerk, with a copy sent to the building inspector, at least ten (10) days before such usage is contemplated. A written approval from the building inspector, with a copy sent to the city clerk, must be obtained before any such usage.
  - d. There shall be paved driveways at least twenty-five (25) feet wide with at least one (1) paved walkway, five (5) feet wide at the edge of the drive. The drive may not be "dead end" but must have at least two (2) entrances to an established public way. Such entrances if on the same street shall be at least three hundred (300) feet apart, measured from the nearest edge of the drive. No parking shall be allowed at any time on the drive.
  - e. Off-drive parking spaces (in accordance with design standards of section 7-3 herein) must be provided at a ratio of one (1) space for each thirty-six (36) feet of free floor area (equipment and service rooms not included in such areas), plus one (1).
- (11) A historic carriage house for use as a single-family dwelling as an accessory use to a principal dwelling on the same lot, provided that parking requirements are met and upon the condition that there shall be no change to the exterior of the historic carriage house unless approved by the historical commission.
- Specifically excluded from this category are:
- (12) Music and dancing studios.
  - (13) Barber shops and beauty parlors.
  - (14) Food processing and catering of any kind.
  - (15) Any activity using electrical machinery which may interfere with radio or television reception in nearby dwellings.
  - (16) Any other activity which would be detrimental to the neighborhood.
  - (17) Municipal buildings other than schools, libraries and fire houses.
  - (18) Recreational buildings or areas operated by membership clubs for the benefit of their members and not for gain, including nonprofit clubs, lodges and fraternal associations.
  - (19) Rooming or boarding of persons not in the family.
  - (20) Hospitals and sanitariums for the treatment of human ailments, except those listed in subsections (6) through (8) above. However, clinics, if built within one thousand five hundred (1,500) feet of the Salem Hospital, will be allowed.
  - (21) Nursing or convalescent homes, or rest homes.
  - (22) Cemeteries.
  - (23) Multifamily dwellings.
  - (24) Philanthropic and charitable institutions.
  - (25) Buildings, structures or land used or to be used by a public service corporation.
  - (26) Automobile service stations.
  - (27) Any special permit uses for B-1, B-2, B-4 and I Districts.
  - (28) Open air motion picture theaters.

- (29) Dormitories, other than mentioned in subsection (9) above.
  - (30) Supermarkets.
  - (31) Sales of motor vehicles, trailers, boats and service for the same.
  - (32) Retail establishments not including clubs as defined under Chapter 138, Section 1 of the General Laws (Ter. Ed.) licensed to sell alcoholic beverages for consumption on the premises and employing not more than eight (8) persons. The term "eight (8) persons" shall be interpreted to mean all persons including the owner, part-time employees, etc., regularly employed in any twenty-four-hour period.
  - (33) Commercial amusement or amusement arcade.
- (c) *R-2 Districts.* The following are special permit uses in two-family residential districts:
- (1) All special permit uses for R-C and R-1 Districts, subject to the restrictions specified for such uses.
  - (2) Funeral homes.
  - (3) Tourist homes.
  - (4) Rooming and boarding of three (3) or more persons, not to exceed a total of six (6) persons.
  - (5) A historic carriage house for use as a single-family dwelling as an accessory use to a principal dwelling on the same lot, provided that parking requirements are met and upon the condition that there shall be no change to the exterior of the historic carriage house unless approved by the historical commission.
- Specifically excluded from this category are:
- (6) All special permit uses specifically excluded from R-C and R-1 Districts.
  - (7) Nursing or convalescent homes, or rest homes.
  - (8) Hotels, motels or inns.
  - (9) Any special permit uses for B-1, B-2, B-4 and I Districts.
- (10) Automobile service stations.
  - (11) Automobile or automotive manufacturing and/or assembly plants.
  - (12) Multifamily dwellings, except those listed in section 5-2(b) and (c) of this article.
  - (13) Sales of motor vehicles, trailers, boats and service for the same.
  - (14) Retail establishments not including clubs as defined under Chapter 138, Section 1 of the General Laws (Ter. Ed.) licensed to sell alcoholic beverages for consumption on the premises and employing not more than eight (8) persons. The term "eight (8) persons" shall be interpreted to mean all persons including the owner, part-time employees, etc., regularly employed in any twenty-four-hour period.
- (d) *R-3 Districts.* The following are special permit uses in the multifamily residential districts:
- (1) Nursing, convalescent, and rest homes, not over two (2) stories high, having more than seventy (70) beds if of Type I construction as defined in section 2-2 herein.
  - (2) Nursing, convalescent, and rest homes, not over two (2) stories high, having not more than seventy (70) beds if of Type II construction as defined in section 2-2 herein.
  - (3) Hotels, motels or inns.
  - (4) Municipal buildings including fire stations.
  - (5) Garden type multifamily dwellings, if built in accordance with the following requirements:
    - a. A preliminary site plan shall be submitted to the planning board which shall show the dimensions of the lot, all proposed buildings, structures, parking facilities, service areas, recreational and play areas, landscape features and any other information as may be necessary to determine that the requirements of the following sections will be met. Upon the approval of the preliminary site plan, the developer will submit the following.



- b. A definitive site plan with all the roadways and utilities such as sanitary sewers, storm drainage and water, showing proposed grades and elevations and all major streets throughout the development, with the City of Salem planning board rules and regulations governing the subdivision of land. The planning board shall endorse its approval of the definitive site plan before it is submitted to the board of appeals of the zoning ordinance. The city engineer shall also endorse the plan, certifying the adequacy of the present and proposed sewer and water installations.
  - c. Garden type multifamily dwelling developments having more than twenty (20) dwelling units shall have a minimum of two (2) access roadways, and traffic of access and egress roads shall be shown.
  - d. No structure shall exceed three (3) stories, thirty-five (35) feet in height, measured from the mean finished grade. No more than two (2) dwelling units shall be a single unit of the entire structure. Each unit shall be separated from all other adjoining units by walls, without openings, except such openings as may be permissible for mechanical services.
  - e. No structures or group of structures, except one-story garages or carports, shall be nearer to each other than fifty (50) feet. Carports or garages, if not directly attached, shall be at least ten (10) feet from the main buildings.
  - f. There shall be a lot area of at least one thousand (1,000) square feet for each dwelling unit within each building.
  - g. There shall be a buffer zone of seventy-five (75) feet from any building or structure on an adjacent lot where said lot is not under the same ownership as the garden type development.
  - h. There shall be provided at least one and one-half (1½) paved off-street parking spaces for each dwelling unit. No space shall be considered available for parking which reduces the effective width of the driveway providing access to more than one (1) dwelling unit to less than sixteen (16) feet.
  - i. Sewage shall be disposed of by means of adequate connections to the municipal sewer system.
  - j. After the planning board and the city engineer have endorsed their approval on the definitive site plan, the board of appeals may grant a special permit within the permitted districts after holding a public hearing.
  - k. Notwithstanding anything in these zoning regulations to the contrary, sales of individual dwelling units in multifamily dwellings or otherwise, constituting townhouses, row houses or attached houses or the like, may be made without compliance with the residential density regulations appearing in this ordinance, excepting only that a minimum lot area of each dwelling unit shall be one thousand (1,000) feet.
- (6) Notwithstanding the "specifically excluded" list of uses specified in paragraphs (b) and (c) of this section, certain other uses will be allowed by special permit for certain multifamily complexes. Therefore, multifamily (apartment) buildings and developments complying with the following basic minimum requirements may have the hereinafter permissive special permit uses built and occupied as part of the development:
- a. The hereinafter listed special permit uses may be built and occupied by a special permit issued by the board of appeals as required by section 9-4 hereof. The basic minimum requirement shall not be changed. If any change in the basic requirement is made, the special permit use shall cease forthwith. The basic requirements are:
    - 1. There shall be a minimum of one hundred fifty (150) dwelling units in the building or buildings.
    - 2. The ownership title to all buildings and all land shall be held in a

single ownership, either by a corporation or an individual.

3. All multifamily buildings shall be built and so located that no other type of building except a multifamily dwelling shall occupy any part of the land or development.
  4. The area occupied by all businesses permitted by the special permit uses shall be within a multifamily dwelling or may be in an ell or wing, providing the ell is more or less attached to the main building.
  5. The areas required for such special permit occupancy shall be predetermined so as to prevent locating such businesses in a haphazard manner. It is the intention of this provision to concentrate the business into one (1) general area to create a "local business area" within the development area.
  6. It is the intention of this subsection (d)(6) to allow certain business uses within the development area to provide services primarily for the tenants of the development. However, this primary use will not prohibit the use for services to the general public. In any event, additional parking and loading spaces conforming to the provisions of sections 7-3 and 7-4 herein, in addition to the regular parking spaces required for multifamily dwellings, shall be provided.
  7. There shall be no more than one (1) establishment allowed as a permissive special permit use for each eight hundred (800) dwelling units or fraction thereof in the development as defined under this subsection (d)(6).
- b. Permissive special permit uses for multifamily complexes complying with the provisions of subsection (6) a above:
1. Delicatessen stores, including specialty food stores, but not including regular grocery stores, cash or carry dairy product stores or variety stores.
  2. Drugstores, excluding soda fountains and notions.
  3. Book, stationery or gift shops.
  4. Florist shops, but excluding greenhouses.
  5. Barbershops, not to exceed two (2) chairs.
  6. Beauty parlors, not to exceed two (2) operators.
  7. Self-service laundry and dry cleaning, provided that not more than one (1) person (employee) is engaged to superintend such services.
  8. Professional offices, but excluding clinics.
  9. Restaurants which may serve alcoholic beverages consumed on the premises but excluding drive-in snack shops.
  10. Auditoriums with a maximum seating of five hundred (500) persons. Portable sound or motion picture equipment may be used, but the room may not be used for showing of motion pictures exclusively.
  11. Outdoor swimming pools which do not conform with the requirements of Article VII, Supplementary Regulations, as amended in this ordinance.
  12. Banks and savings and loan institutions.
- (7) Condominiums (new only), provided they comply with all applicable provisions in this ordinance for multiple-family dwellings and also comply with all applicable provisions of Section 183-A, as amended to date, of the Massachusetts General Laws.
- (8) A historic carriage house for use as a single-family dwelling as an accessory use to a principal dwelling on the same lot, provided that parking requirements are met and upon the condition that there shall be no change to the exterior of the historic car-

riage house unless approved by the historical commission.

Specifically excluded from this category are:

- (9) Any special permit uses specifically excluded from R-C, R-1 and R-2 Districts, with the exception of convalescent or nursing homes.
- (10) Any special permit uses for B-1, B-2, B-4 and I Districts.
- (11) Automobile service stations.
- (12) Nursing or convalescent or rest homes of any other construction but Type I or II as defined in section 2-2 herein. Unless existing homes are of Type I or II construction in their entirety, no additions to the same will be allowed.
- (13) Automobile or automotive manufacturing and/or assembly plants.
- (14) The above listed exclusions for this category are not to be construed so as to prohibit the construction of certain accessory uses as provided for in this paragraph.
- (15) Retail establishments not including clubs as defined under Chapter 138, Section 1 of the General Laws (Ter. Ed.) licensed to sell alcoholic beverages for consumption on the premises and employing not more than eight (8) persons. The term "eight (8) persons" shall be interpreted to mean all persons including the owner, part-time employees, etc., regularly employed in any twenty-four-hour period.
- (16) Sales of motor vehicles, trailers, boats and service for the same.

(e) *B-1 Districts.* The following are special permit uses in the neighborhood business districts:

- (1) All special permit uses for R-2 and R-3 Districts, subject to the restrictions specified for such uses, but excluding municipal buildings and swimming pools.
- (2) Automobile service stations, subject to the restrictions of section 7-2 herein.

Specifically excluded from this category are:

- (3) Any special permit uses specifically excluded from R-C, R-1, R-2 and R-3 Districts, except supermarkets.
  - (4) Sales of motor vehicles, trailers, boats and service for the same.
- (f) *B-2 Districts.* The following are special permit uses in the districts:
- (1) All special permit uses for R-2 and R-3 Districts, subject to the restrictions specified for such uses.
  - (2) Automobile, trailer and boat sales and service.
  - (3) Places of commercial recreation and entertainment, such as bowling alleys, roller rinks, golf driving ranges, miniature golf courses and drive-in theaters.
  - (4) Commercial amusement devices, subject, however, to the board of appeals making the following specific findings with regard to each application for a special permit hereunder:
    - a. That adequate security will be provided on the site;
    - b. That adequate arrangements will be made to ensure that the location of the commercial amusement devices on the premises will not be open to school age children during school hours;
    - c. That the operation of such commercial amusement devices will not create any significant increases in vehicular or pedestrian traffic in the neighborhood and that two (2) parking spaces be provided for each commercial amusement device;
    - d. That adequate arrangements will be made or precautions will be taken to prevent the premises from becoming a public nuisance from the point of view of noise, trash generation and the like;
    - e. That adequate sanitary facilities will be provided on the premises for the use of its customers where commercial amusement arcades are permitted;

- f. That adequate screening and noise barriers will be provided to shield other incompatible uses from the visual and aural effects of the commercial amusement devices; and
- g. That the board shall consider the density of such use and the proximity of such use to schools and residences.

The board shall impose such additional conditions as to hours and method of operation as the board shall determine are necessary or appropriate in the circumstances to protect the health, safety, convenience, morals and welfare of the inhabitants of the City of Salem. Each special permit granted shall be valid for a term of three (3) years.

Specifically excluded from this category are: All single-family, two-family and multifamily dwellings. However, motels, hotels, or residential units built under the jurisdiction of the Salem Housing Authority and financed by either the U.S. Public Housing Administration and/or the Commonwealth of Massachusetts Department of Commerce-Division of Public Housing will be permitted in accordance with the provisions of the special permit use requirements.

(g) *B-4 Districts.* The following are special permit uses in the wholesale and automotive business districts:

- (1) Veterinary hospitals.
- (2) Commercial amusement devices, subject, however, to the board of appeals making the following specific findings with regard to each application for a special permit hereunder:
  - a. That adequate security will be provided on the site;
  - b. That adequate arrangements will be made to ensure that the location of the commercial amusement devices on the premises will not be open to school age children during school hours;
  - c. That the operation of such commercial amusement devices will not create any significant increases in vehicular or pedestrian traffic in the neighborhood and that two (2) parking spaces be provided

for each commercial amusement device;

- d. That adequate arrangements will be made or precautions will be taken to prevent the premises from becoming a public nuisance from the point of view of noise, trash generation and the like;
- e. That adequate sanitary facilities will be provided on the premises for the use of its customers where commercial amusement arcades are permitted;
- f. That adequate screening and noise barriers will be provided to shield other incompatible uses from the visual and aural effects of the commercial amusement devices; and
- g. That the board shall consider the density of such use and the proximity of such use to schools and residences.

The board shall impose such additional conditions as to hours and method of operation as the board shall determine are necessary or appropriate in the circumstances to protect the health, safety, convenience, morals and welfare of the inhabitants of the City of Salem. Each special permit granted shall be valid for a term of three (3) years.

Specifically excluded from this category are: All residential uses, except residential units built under the jurisdiction of the Salem Housing Authority and financed by either the U.S. Public Housing Administration and/or the Commonwealth of Massachusetts Department of Commerce-Division of Public Housing.

(h) *I Districts.* The following are special permit uses, or prohibited uses as indicated, in the industrial districts:

- (1) Industrial and manufacturing operations, provided that such operations:
  - a. Are not specifically prohibited from the City of Salem according to the schedule of prohibited uses in subsection (h)(3) below;
  - b. Are not dangerous by reason of hazard from fire or explosion;
  - c. Are not offensive or detrimental by reason of causing dust, smoke, odor,

- fumes, noise, vibration, traffic congestion or other nuisance; and
- d. Are compatible with adjacent nonindustrial uses.
- (2) All special permit uses for B-2 and B-4 Districts, subject to restrictions specified for such uses. However, special permit uses for R-C, R-1, R-2, R-3 and B-1 Districts shall be prohibited.
- (3) Schedule of prohibited uses in industrial districts:
- a. Acid manufacture.
  - b. Cement, lime, gypsum or plaster of paris manufacture.
  - c. Production of chlorine or similar noxious gases.
  - d. Distillation of bones.
  - e. Drop-forge industries manufacturing forging with power hammers.
  - f. Manufacture or storage of explosives in bulk quantities.
  - g. Fertilizer manufacture.
  - h. Garbage, offal, or dead animal reduction or dumping.
  - i. Glue manufacture.
  - j. Hair manufacture.
  - k. Petroleum refining.
  - l. Processing of sauerkraut, vinegar or yeast.
  - m. Rendering or refining of fats or oils.
  - n. Smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill.
  - o. Stockyard or feeding pen.
  - p. Slaughter of animals, not including the killing of fowl.
  - q. One-family, two-family and multifamily residential units.
  - r. Swimming pools.
  - s. Open air motion picture theaters.
  - t. All special permit uses for R-C, R-1, R-2, R-3 and B-1 Districts.

(i) *A-1 District.* The following are special permit uses in the amusement district: Special permit uses for B-2 Districts, subject to the restrictions specified for such uses. Specifically excluded from this district are all single-family, two-family and multifamily dwellings. However, motels, hotels, or residential units built under the jurisdiction of the Salem Housing Authority and financed by either the U.S. Public Housing Administration and/or the Commonwealth of Massachusetts Department of Commerce-Division of Public Housing will be permitted in accordance with the provisions of the special permit use requirements.

(j) *Extension of nonconformity.* Notwithstanding anything to the contrary appearing in this ordinance, the board of appeals may, in accordance with the procedures and conditions set forth in sections 8-6 and 9-4 herein, grant special permits for alterations and reconstruction of nonconforming structures and for change, enlargement, extension or expansion of nonconforming lots, land, structures and uses, provided, however, that such change, extension, enlargement or expansion shall not be substantially more detrimental than the existing nonconforming use to the neighborhood, nor shall this paragraph apply to billboards, signs or other advertising devices.

(k) *Agriculture.* No special permit for the use of land for the primary purpose of agriculture, horticulture or floriculture shall be required, nor shall such a permit be needed for the expansion or reconstruction of existing structures thereon for such uses, except that all such activities are limited to parcels of more than five (5) acres in areas not zoned for agriculture, horticulture or floriculture.

(l) *Condominium and cooperative conversion.*

- (1) The conversion of an existing building or structure previously or presently used for rental housing of any type, kind or character into a cooperative or condominium will be allowed if permission of the board of appeals is obtained in accordance with the procedures and conditions set forth in section 9-4 hereof, provided, however, that all other provisions of this zoning ordinance shall apply relating to use regulations, density regulations and supplement-

tal regulations, and further provided that there shall be compliance with all applicable provisions of Massachusetts General Laws, Chapter 183A, as it may be from time to time amended. Nothing herein shall be construed to prevent the conversion of existing buildings or structures not previously or presently used for rental housing into a condominium or cooperative, and nothing herein shall be construed to prevent cooperative or condominium conversions that take place as part of the Urban Development Action Grant program administered by the City of Salem.

- (2) In addition to the notice requirements set forth in this zoning ordinance and in the provisions of Massachusetts General Laws, Chapter 40A, as amended, prior to the filing of a petition for a condominium or cooperative conversion, notice in writing along with a copy of the ordinance must be given to the present tenants of the building of the intent to file the petition, and proof that such notice has been given must be filed with the board of appeals together with the petition. Notice of the filing shall also be given to the Housing Authority of the City of Salem. All documentation required by Massachusetts General Laws, Chapter 183A, shall also be filed together with such petition, and tenants shall receive notice of the public hearing before the board of appeals.

- (3) In determining whether or not to grant the petition for special permit, the board of appeals shall consider, in addition to the matters set forth in section 9-1 hereof and Massachusetts General Laws, Chapter 40A, the following matters:

- a. The relationship of the condominium or cooperative conversion to the master plan of the City of Salem;
- b. The impact of the cooperative or condominium conversion on the neighborhood and its impact on the existing stock of rental units in the City of Salem for families of low and moderate income and elderly people on fixed incomes;

- c. The degree of hardship caused by the conversion on existing tenants in the building and the steps taken by the petitioner to alleviate such hardship, in particular, steps taken which allow the tenant to purchase the condominium or cooperative unit and steps taken to provide adequate time within which the tenant may find adequate housing;
- d. Furthermore, in granting any special permit under this subsection, the board of appeals shall provide for a minimum of six (6) months to elapse from the time of its action before the issuance of the permit and the commencement of any work in furtherance of the condominium or cooperative conversion, unless the building is vacant at the time of the filing of such petition or becomes vacant thereafter; provided, however, that if the board of appeals determines that the vacancy has been purposely caused in order to prepare the project for conversion, the issuance of the special permit shall be denied.

(m) *Personal wireless service facilities.* An applicant for a wireless communication facility (WCF) may not be issued a building permit unless or until a WCF special permit has been issued by the planning board. The planning board shall approve, or approve with conditions, if the petitioner can fulfill the requirements of this section. An application for a WCF special permit shall be denied if the petitioner cannot fulfill the requirements of this section.

- (1) *Purpose.* The purpose of this amendment is to provide areas where wireless communications facilities can be sited by special permit, while minimizing potential damage and adverse visual impacts on adjacent properties, residential neighborhoods, and areas of historic or high scenic value; to allow the provision of necessary wireless communication services in an orderly way; and to promote shared use of existing facilities to reduce the need for new facilities.

(2) *General requirements.*

- a. A monopole shall be the only wireless communication structure (WCS) issued a WCF special permit. Lattice towers and guyed towers are not allowed WCSs.
- b. A WCF special permit may also be granted for a WCD or WCS to be affixed to existing, multi-story, apartment buildings or structures so long as such WCD or WCS shall not exceed fifteen (15) feet in height above the highest building or structure within three hundred (300) feet of the proposed WCF.
- c. To the extent feasible, all service provided shall co-locate all WCFs on a single facility. WCFs shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
- d. WCF structures shall be removed by the owner at the owner's expense within six (6) months of cessation of use for the particular purpose for which the applicable special permit or any other permit was originally issued for such WCF. At such a time as the carrier plans to abandon or discontinue operation of said WCF, the carrier shall notify the city by certified mail of the proposed date of cessation or abandonment. If the carrier fails to remove the WCF in accordance with this section, the city shall have the authority to enter the subject WCF and physically remove. The planning board may require the applicant to post a bond at the time of construction to cover costs for the removal of the WCF in the event the city must remove the WCF.
- e. Any proposed extension in the height, addition of cells, antennas or panels, constitution of a new facility, or re-

placement of a facility, shall be subject to a new application for an amendment to the special permit.

(3) *Submission requirements.* All applications for WCF special permit shall be made and filed with the planning board. For an applicant [application] to be considered complete five (5) copies of the following must be submitted:

- a. A locus plan of the proposed area at a scale no greater than one (1) inch = two hundred (200) feet which shows property lines, the exact location of the proposed structure(s), streets, residential dwellings and all buildings within seven hundred (700) feet of the property.
- b. A color photograph or rendition of the proposed facility with its antennas or panels. A rendition shall also be prepared illustrating a view of the monopole, dish or antennas from the nearest street.
- c. The following information must be submitted and prepared in written form by a knowledgeable registered professional engineer and/or radiofrequency engineer or other person deemed qualified by the planning board:
  - i. A description of the facility;
  - ii. The technical, economic and other reasons why the proposed location, height and design fulfills the purposes of section 5-3(m)(1);
  - iii. Confirmation that the facility complies with all applicable federal and state rules, regulations and standards;
  - iv. A description of the capacity of the facility including the number and type of panels, antennas and/or transmitter's receivers that it can accommodate for the purpose of these calculations;

- v. Confirmation to the building inspector that the proposed facility complies with or is exempt for applicable regulations administered by the FAA, FCC, Massachusetts Aeronautic Commission and the Massachusetts Department of Public Health. This confirmation will be provided to the building inspector by the then current owner every two (2) years after issuance of the original building permit;
- vi. The applicable review and advertising fees as noted in the application guidelines.

(4) *Design guidelines.* The following guidelines shall be used when preparing plans for the siting and construction of all WCFs.

- a. No monopole shall exceed two hundred feet (200) in height.
- b. All facilities shall be painted or otherwise colored to blend in with the landscape or the structure on which they are located/attached.
- c. WCFs shall be suitably screened from abutters and residential neighborhoods.
- d. A security barrier shall be provided to control access to WCFs and shall be compatible with the scenic character of the area.
- e. Existing on-site vegetation shall be preserved to the maximum extent possible.
- f. There shall be no signs, except for announcement signs, no trespassing signs, safety signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis. All signs shall conform to the City of Salem's Sign Ordinance and Entrance Corridor Overlay District.
- g. A monopole shall not be erected nearer to any property line than a distance equal to a minimum of one

hundred twenty-five (125) percent of the height of the monopole measured from the lowest point on the base of the monopole.

- h. A freestanding monopole shall be located a minimum of five hundred (500) feet from the nearest residential structure.
- i. Night lighting of towers shall be prohibited unless required by the FAA. Lighting shall be limited to that needed for emergencies and/or required by the FAA.

(Ord. of 11-20-97, § 3)



## ARTICLE VI. DENSITY REGULATIONS

### Sec. 6-1. Residential uses.

(a) A dwelling hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in Table I following section 6-4, and no more than one (1) dwelling shall be built upon any such lot. No existing lot shall be changed in size or shape so as to result in a violation of the requirements set forth in Table I.

(b) In interpreting Table I, the following provisions shall apply:

- (1) The minimum front yard depth required shall be measured from the right-of-way line where a plan of the right-of-way is on file with the registry of deeds, or in the absence of such a plan, from a line thirty-five (35) feet from and parallel with the centerline of the traveled way to the front building line.
- (2) The minimum side yard width required shall be measured from the side lot line to the side building line, and the minimum rear yard depth required shall be measured from the rear lot line to the rear building line.
- (3) On a corner lot, the minimum front yard depth, rather than the minimum side yard width, shall be applied to determine the setback of any building from lot lines abutting any public way.
- (4) The minimum lot width required shall be measured at the rear of the required front yard depth and on a line parallel to the right-of-way line where a plan of the right-of-way is on file with the registry of deeds or, in the absence of such a plan, from a line twenty-five (25) feet from and parallel with the centerline of the traveled way.
- (5) The building height shall be measured from the average elevation of the proposed finished grade at the front line of the building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the mean height between eaves and ridge

for gable, hip and gambrel roofs. Fences and walls shall be measured from the finished grade vertically to the highest point.

- (6) The limitations on height of buildings shall not apply in any district to spires, towers, chimneys, broadcasting and television antennae, ventilators, and other appurtenances or ornamental features usually located above the roof, which features are in no way used for living purposes, nor to farm buildings, churches, municipal building or institutional buildings.

(c) The provisions of Table I with respect to lot area, lot width, lot coverage, yards and height of buildings shall not apply to the islands within the municipal boundaries of Salem as listed in section 3-3 hereof.

### Sec. 6-2. Business and industrial uses.

A building for business, commercial amusement or amusement arcade, or industrial use hereafter erected in a business or industrial district shall be located on a lot having not less than the minimum requirements set forth in Table II following section 6-4 herein. In interpreting Table II, the same provisions for interpreting Table I shall apply.

### Sec. 6-3. Central development district uses.

A building erected hereafter for uses permitted in the B-5 District shall meet the requirements set forth in Table III following section 6-4 herein. In interpreting Table III, the same provisions for interpreting Table I shall apply.

### Sec. 6-4. Business Park Development District.

A building erected hereafter for uses permitted in the Business Park Development District shall meet the requirements set forth in Table IV. In interpreting Table IV, the same provisions for interpreting Table I shall apply.

**TABLE I**  
**RESIDENTIAL DENSITY REGULATIONS**

	<i>R-C</i>	<i>R-1</i>	<i>R-2*</i>	<i>R-3**</i>
Minimum lot area (square feet)	80,000	15,000	15,000	25,000
Minimum lot area per dwelling unit (square feet)	80,000	15,000	7,500	3,500
Minimum lot width (feet)	200	100	100	100
Maximum lot coverage by all buildings (percent)	20	30	35	35
Minimum depth of front yard (feet)	40	15	15	15
Minimum width of side yard (feet)	40	10	10	20
Minimum depth of rear yard (feet)	100	30	30	30
Maximum height of buildings (feet)	35	35	35	45**
Maximum height of buildings (stories)	2½	2½	2½	3½
Maximum height of fences/boundary walls (feet)	6	6	6	6
Minimum distance between buildings on lot (feet)	100	40	30	40

\* These density regulations relative to height will apply to all housing projects even though financed in whole or in part by the U.S. Public Housing Administration and/or Commonwealth of Massachusetts Department of Community Affairs-Division of Public Housing. Specifically excluded will be housing for the elderly constructed by the Salem Housing Authority.

\*\* Multifamily dwellings building in R-3 Districts on lots held under a single ownership and consisting of a minimum of two hundred thousand (200,000) square feet may be built to a maximum height of fifty (50) feet or four (4) stories in height.

Retaining walls, boundary walls and/or fences may be built abutting the property line. The height of the retaining walls, boundary walls and/or fences shall be measured on the inside face of the structure on the owner's side.

Refer to section 7-7 herein for visibility at intersections.

**TABLE II**  
**BUSINESS AND INDUSTRIAL DENSITY REGULATIONS**

	<i>B-1</i>	<i>B-2</i>	<i>B-4</i>	<i>I</i>
Minimum lot area (square feet)	6,000	12,000	6,000	40,000
Minimum lot width (feet)	60	100	60	150
Maximum lot coverage by all buildings (percent)	40	25	80	45
Minimum depth of front yard (feet)	15	30	—	30
Minimum width of side yard (feet)	10	10	—	30
Minimum depth of rear yard (feet)	30	30	25	30
Maximum height of buildings (feet)	30	30	45	45
Maximum height of fences/boundary walls (feet)	10	10	10	15

TABLE III  
B-5 DENSITY REGULATIONS

	<i>Nonresi- dential Uses-Existing Building</i>	<i>Nonresi- dential Uses-New Construction</i>	<i>Residential Uses or Combined Residen- tial and Nonresi- dential Uses- Existing Building<sup>1</sup></i>	<i>Residential Uses or Combined Residen- tial and Nonresi- dential Uses- New Construction<sup>1</sup></i>
Minimum lot area (square feet)	2,000	2,000	2,000	2,000
Minimum lot area per dwelling unit (square feet)	—	—	—	500
Minimum lot width (feet)	30	30	30	30
Maximum lot coverage by all buildings (percent)	100	50	100	50
Minimum width of side yard (feet)	—	5	—	5
Maximum height of buildings (feet)	70	70	70	70
Maximum height of buildings (stories)	6	6	6	6
Maximum height of fences and bordering walls	10	10	6	6
Minimum distance between buildings if more than one (1) on a lot	Distance equal to the height of the taller building <sup>2</sup>			
Floor area ratio	6:1	3:1 <sup>3</sup>	6:1	3:1

<sup>1</sup> Where residential use comprises twenty-five (25) percent or less of the total building area, the regulations for nonresidential uses shall apply.

<sup>2</sup> This distance may be reduced to a distance which is sufficient to provide adequate light, air and access, subject to the approval of the planning board. There shall be no requirement for individual row houses sharing a party wall.

<sup>3</sup> May be increased up to 6.0:1 for buildings predominantly characterized as fifty (50) percent open automobile parking structures.

**TABLE IV**  
**BUSINESS PARK DEVELOPMENT DISTRICT DENSITY REGULATIONS**

Minimum lot area (square feet).....	40,000
Minimum lot width (feet) .....	150
Maximum lot coverage (percent).....	45
Minimum depth of front yard (feet) .....	50
Minimum width of side yard (feet) .....	30
Minimum depth of rear yard (feet).....	50
Maximum height of buildings (feet).....	50
Maximum height of fences (feet).....	10
Buffer area required (feet from any residential or conservation use).....	75
Open space required (percent) .....	10
Parking required.....	(Subject to planning board approval)

## ARTICLE VII. SUPPLEMENTARY REGULATIONS

### 7-1. Trailers.

(a) No person shall park, store or occupy a trailer for living or business purposes within the City of Salem, except:

- (1) The owner of residential premises may permit occupancy of such premises by non-paying guests using a trailer for a period not to exceed twenty (20) days. A special permit for this purpose must be obtained from the inspector of buildings before the land can be so occupied. No more than one (1) trailer is permitted with any one (1) residence or lot.
- (2) A temporary office incidental to construction on or development of the premises on which the trailer is located shall be permitted.

(b) In neither case enumerated in subsections (a)(1) and (2) shall the trailer be connected to public water or sewer facilities. Trailers used as temporary construction offices may be connected to telephone and electric facilities.

(c) Dead storage and/or parking of trailers will be permitted in accordance with the following provisions:

- (1) Such stored trailers shall not be used for living occupancy, except as stipulated in subsection (a)(1) above.
- (2) Trailers shall not be stored in any front yard. If stored in any side or rear yard, the trailer shall not be placed closer than ten (10) feet from any lot line or within five (5) feet of any building on an adjacent lot.

### 7-2. Automobile service stations.

Any automobile service station or gasoline filling station in any district shall conform at least to the following regulations. Where the density regulations for any district in which an automobile service station is located are more restrictive than the regulations contained hereinafter, the

service station shall conform to the more restrictive dimensional requirements.

- (1) Every automobile service station shall have a minimum lot width of one hundred twenty (120) feet and a minimum lot area of twelve thousand (12,000) square feet, plus an additional two thousand (2,000) square feet of lot area and an additional twenty (20) feet of lot width for every two (2) pumps and one (1) service bay in excess of four (4) pumps and two (2) service bays. Duplex pumps and/or hoses that are covered or enclosed in a single housing shall be counted as two (2) pumps.
- (2) Every structure erected for use as an automobile service station shall have a minimum setback from the street right-of-way of forty (40) feet and a minimum setback from all property lines of ten (10) feet. All pump islands shall be set back a minimum of fifteen (15) feet from all property lines.
- (3) All vehicle service areas shall be constructed to conform to the following standards:
  - a. A curb six (6) inches high and six (6) inches wide shall be provided along all property lines abutting street rights-of-way, except for portions used for driveway entrances.
  - b. The entire area used for vehicle service shall be paved, except for such area as is landscaped and considerably protected from vehicle use by a low barrier.
  - c. Hydraulic hoists, pits and lubricating, greasing, washing and repair equipment shall be entirely enclosed within a building.
  - d. The width of driveway entrances shall be not more than twenty-four (24) feet.
  - e. The angle of intersection of the driveway with the street shall be not more than sixty (60) degrees.
  - f. The distance from any driveway to any side property line shall be not less than twenty (20) feet.
  - g. The distance between curb cuts shall be not less than forty (40) feet.

- (4) A solid wall or compact evergreen screening five (5) feet high shall be erected along all property lines abutting residential uses.
- (5) Exterior lighting shall be so arranged as to reflect light away from adjoining premises and streets.

**Sec. 7-3. Off-street parking; uncovered, not included in structure.**

(a) Off-street parking spaces shall be provided and maintained by the owner of the property for each building or use which, after the effective date of this ordinance, is erected, enlarged or altered, according to the regulations set out in this section.

(b) All parking spaces required by this ordinance shall be on the same lot as the building or use which they are intended to serve, except that the board of appeals may permit the parking spaces to be provided within four hundred (400) feet of the building or use intended to be served, if the board determines that it is impractical to provide parking on the same lot with the building. If a separate lot is used for parking, the ownership of the lot must, for all times, be held by the same ownership as the lot on which the building is erected. If the parking lot ownership is separated from the ownership of the building, this shall be deemed a violation, and the building inspector shall void the certificate of occupancy.

(c) Notwithstanding any other provisions of this ordinance, off-street parking shall not be required for any church or other place of worship or secondary school or institution of higher education, with the exception of the State College at Salem where local ordinances shall prevail.

(d) Required parking spaces shall not be reduced or encroached upon in any manner unless a change in use occurs which permits a change in the amount of parking area required.

(e) Design of all off-street parking facilities:

- (1) Parking facilities shall be occupied only by passenger cars and commercial vehicles not exceeding seven and one-half (7½) feet in width and eighteen (18) feet in length.

(2) The minimum dimensions of stalls and aisles shall be as follows:

- a. Stall width shall be at least nine (9) feet.
- b. Stall depth shall be at least nineteen (19) feet for all angle parking and twenty-two (22) feet for parallel parking. Such dimensions may include no more than two (2) feet of any landscaped setback area adjacent to the front or rear of a stall and used for bumper overhang.
- c. Minimum width of aisles providing access to stalls for one-way traffic only, varying with the angle of parking, shall be:

<i>Angle of Parking (degrees)</i>	<i>Minimum Aisle Width (feet)</i>
Parallel	12
30	11
45	13
60	18
90	20

- d. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty-four (24) feet, except that aisles providing access primarily for overnight parking may be a minimum of twenty (20) feet.
- (3) Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.
- (4) The widths of entrance and exit drives shall be:
  - a. A minimum of twelve (12) feet for one-way use only;
  - b. A minimum of twenty (20) feet for two-way use, except that driveways providing access primarily for overnight parking, with incidental daytime use, may be a minimum of twelve (12) feet wide; and
  - c. A maximum of twenty (20) feet at the street lot line in residence districts and

thirty (30) feet in business and industrial districts.

(5) Setbacks for parking areas shall be provided as follows:

- a. In all districts parking stalls in parking lots shall be set back from the street lot line to whatever extent may be necessary in the specific situation, as determined by the building inspector, to avoid the probability of cars backing or otherwise maneuvering on the sidewalk upon entering or leaving the stalls. In no case shall parking lots be designed to require or encourage cars to back into a public or private way in order to leave the lot.
- b. The surfaced area of a parking lot and all entrance and exit drives shall be set back a minimum of two (2) feet from all lot lines, except where an access driveway crosses the street lot line.

(f) No part of an off-street parking area required by this ordinance for any building or use shall be included as part of an off-street parking area similarly required for another building or use unless the type of buildings or uses indicates that the usage of such parking area would not occur simultaneously, as determined by the board of appeals.

(g) The following numbers of off-street parking spaces shall be the minimum required for the uses indicated. Each parking area shall contain not less than three hundred (300) square feet of gross area for each vehicle, including necessary aisles and driveways, and not less than one hundred seventy (170) square feet of area in each parking stall, with each stall a minimum of nine (9) feet in width. A driveway may be considered a parking space for a dwelling, provided that each vehicle has direct access to a street or public way. Notwithstanding any restrictions in this section 7-3, no area within five (5) feet of the street line, including any driveway, shall be considered as a parking space in R-C, R-1, R-2 and R-3 Districts. In R-3 Districts, the restriction on off-street parking will not apply to elderly housing projects built under the jurisdiction of the Salem Housing Authority and financially aided by either the U.S. Public Housing Administration and/or the Com-

monwealth of Massachusetts Department of Commerce-Division of Public Housing.

<i>Use</i>	<i>Required Parking</i>
Dwellings (R-C, R-1, R-2, R-3), rooming houses, tourist homes, home occupations	One and one-half (1½) spaces per dwelling unit, with a min- imum of two (2) spaces, plus one (1) space for each home occupation
Historic buildings open to the public, museums, libraries, municipal buildings other than schools	One (1) space for each two (2) employees, plus such addi- tional space for visitors as shall be determined necessary by the board of appeals
Recreation buildings and areas operated by member- ship clubs	One (1) space for each two (2) employees, plus one (1) space for each four (4) members
Public and private golf courses, golf driving ranges, miniature golf courses	One (1) space for each two (2) employees, plus one (1) space for each hole
Hospitals and sanatoria, nursing and convalescent homes	One (1) space for each doctor accredited to practice therein, plus one (1) space for each two (2) employees, plus one (1) space for each four (4) beds, excluding bassinets
Philanthropic and charitable institutions	One (1) space for each two (2) employees, plus such addi- tional space as shall be deter- mined necessary by the board of appeals
Funeral homes	One (1) space for each four (4) seats, plus one (1) space for each two (2) employees, plus one (1) space for each company vehicle; there shall be a min- imum of twelve (12) spaces.
Retail business and service es- tablishments, except eating and drinking places	One (1) space for each one hundred fifty (150) square feet of gross floor area of the building, excluding storage area
Theaters and other places of public assembly, restau- rants and other eating and drinking places, but ex- cluding drive-in restau- rants and drive-in snack bars	One (1) space for each four (4) seats, plus one (1) space for each two (2) employees
Drive-in restaurants and other eating and drinking places	One (1) space for each two (2) employees, plus fifteen (15) spaces

<i>Use</i>	<i>Required Parking</i>
Bowling alleys	One (1) space for each alley, plus one (1) space for each two (2) employees
Other places of commercial recreation and entertainment, such as roller rinks and dance halls	One (1) space for each thirty-six (36) square feet of floor area, plus one (1) space for each two (2) employees
Music and dancing studios, trade and business schools	One (1) space for each two (2) employees, including teachers and administrators, plus one (1) space for each four (4) studios in trade or business schools
Motels, hotels and inns	One (1) space for each guest room, plus one (1) space for each two (2) employees
Business offices	One (1) space for each employee
Professional offices, medical and dental clinics	One (1) space for each professional person, plus one (1) space for each two (2) other employees, plus two (2) additional spaces for each professional person in the case of medical or dental clinics
Wholesale merchandise brokers, service industry establishments such as plumbing, carpentry, sheet metal and printing shops, warehousing and industrial uses	One (1) space for each company vehicle, plus one (1) space for each two (2) employees, plus one (1) space for each one thousand (1,000) square feet of gross floor area of the building, excluding storage area

(h) The parking requirements for the B-5 District will be as follows:

- (1) Nonresidential uses in the B-5 District shall not be required to provide off-street parking since the community will accept the responsibility for nonresidential parking in this district.
- (2) New residential dwelling uses in the B-5 District shall provide parking in accordance with the following schedule:
  - a. Provisions shall be made for not less than one (1) parking space per dwelling unit for existing buildings and one and one-half (1½) parking spaces per dwelling unit for new construction.
  - b. The parking requirements for rehabilitated buildings may be accommodated

by either one (1) or a combination of on-site parking and/or parking at municipal or other parking facilities in the vicinity of the proposed use.

- c. The parking requirements for new construction shall be accommodated by on-site parking.
- d. All land parcels along the north bank of the North River, specifically parcels 400, 401, 402, 403, 404, 405, 406 and 407 as described on Assessor's Plate 26, shall be required to provide one and one-half (1½) parking spaces per unit. Such spaces shall be on-site. This provision shall apply notwithstanding all other provisions of subsection (g) herein.
- e. All municipal or other parking facilities which are used to satisfy the parking requirement must meet the following criteria: The parking facility must be less than one thousand (1,000) feet from the proposed development, the distance to be measured in a straight line from the two (2) closest points between the proposed use and the parking facility.
- f. If using a municipal facility, the owner must purchase parking stickers to satisfy the parking requirement.
- g. In contrast to all other defined housing, types built under the jurisdiction of the Salem Housing Authority for elderly and/or handicapped persons shall require one-third (⅓) parking space per dwelling unit.

(i) After the effective date of this ordinance, any parcel of land which is developed as a parking area for ten (10) or more vehicles or as a drive-in business or automobile, trailer or boat sales or service establishment shall be developed as follows, subject to the approval of the plans therefor by the city engineer.

- (1) Such area, where subject to wheeled traffic, shall be treated with bituminous concrete or equivalent surfacing and shall have appropriate bumper or wheel guards where needed.



- (2) A solid wall or fence or compact evergreen screening five (5) feet high shall be erected along all property lines abutting residential uses.
- (3) Any light used to illuminate said parking area shall be so arranged as to reflect light away from adjoining premises and streets.

**Sec. 7-4. Off-street loading.**

Off-street loading spaces or loading areas shall be provided and maintained by the owner of the property for each nonresidential building or use which, after the effective date of this ordinance, is erected, enlarged or altered, according to the following regulations:

- (1) All loading spaces or loading areas required by this ordinance shall be on the same lot as the building or use which they are intended to serve, and in no case shall any required loading area be part of an area used to satisfy the off-street parking requirements of this ordinance.
- (2) Required loading spaces or loading areas shall not be reduced or encroached upon in any manner unless a change in use occurs which permits a change in the amount of loading area required.
- (3) No part of an off-street loading area required by this ordinance for any nonresidential building or use shall be included as part of an off-street loading area similarly required for another building or use, unless the type of buildings or uses indicates that the usage of such loading area would not occur simultaneously, as determined by the board of appeals.
- (4) The following number of off-street loading spaces shall be the minimum required for the uses indicated. Each loading bay shall contain not less than three hundred (300) square feet of area, not including necessary driveways, except for tractor-trailer loading bays which shall contain not less than five hundred forty (540) square feet of area, not including necessary driveways. Each loading bay shall have not less than fourteen (14) feet of overhead clearance.

**NUMBER OF LOADING BAYS  
REQUIRED FOR NEW STRUCTURES**

*Gross Floor Area of Structures  
(in thousands of square feet)*

<i>Uses</i>	<i>2- 15</i>	<i>15- 50</i>	<i>50- 100</i>	<i>100- 150</i>	<i>150- 300</i>	<i>Over 300 (for each additional 150 or fraction thereof)</i>
Retail trade	-	-	-	-	-	-
Wholesale and storage	-	-	-	-	-	-
Industry	1	2	3	4	5	1
Communications and utilities	-	-	-	-	-	-
Consumer service	-	-	-	-	-	-
Office building	-	-	-	-	-	-
Hotel and dormitory	1	1	2	3	4	1
Institution	-	-	-	-	-	-
Recreation	-	-	-	-	-	-
Education	-	-	-	-	-	-

- (5) New nonresidential uses in the B-5 District shall not be subject to the above schedule of requirements but shall be subject to the following schedule:

*Gross Floor Area  
of Structures  
(square feet)*

*Required Loading Bays*

0-20,000  
20,001-40,000  
Each additional 40,000  
or fraction thereof

none\*  
1  
1

- \* Loading facilities and service areas for these uses shall be publicly provided through incorporation of service access privileges in public open spaces and rights-of-way, provided they do not adversely affect desired vehicular or pedestrian traffic flows.

**Sec. 7-5. Signs.**

For regulations on signs, refer to the Salem Sign Ordinance.

**Sec. 7-6. Removal of earth products.**

(a) The quarrying of stone or the removal of topsoil, sand, gravel or subsoil by any person, firm or corporation on any parcel of land in the City of Salem shall be allowed only by special permit from the board of appeals after public notice and hearing, and no permit shall be issued for more than two (2) years.

(b) However, these regulations shall not apply where such removal or quarrying is necessarily incidental to or in connection with the construction, alteration, excavation or grading for a building, road or other facility involving a permanent change in the use of the land, provided that there is reasonable assurance that the construction will be diligently carried on until completion. Removal or quarrying by special permit shall be subject to the following conditions:

- (1) It must be determined that the removal or quarrying is not seriously detrimental to the neighborhood. Removal operations shall not be performed closer than three hundred (300) feet to a public road or to any existing dwelling, school or park. Removal operations as a nonconforming use of land shall not be extended beyond the property lines of the particular parcels upon which such operations are in progress at the time of the adoption of this ordinance.
- (2) At no time shall quarries be maintained at levels such that groundwater and surface water accumulate. Such areas shall either be filled or drained.
- (3) Where there is any open excavation, there shall be a substantial fence with suitable gates completely enclosing the portion of the property in which the excavation is located, and such fence shall be located not closer than fifty (50) feet from the edge of such excavation.
- (4) When the removal or quarrying is discontinued, the earth shall be reshaped to re-

duce the disfigurement of the land, with a maximum allowable slope of twenty (20) percent. In case of topsoil removal, the area shall be seeded and maintained until plant cover is well established. These measures shall be taken progressively as the use of each part for removal or quarrying is discontinued and shall not be postponed until final abandonment of the entire operation.

- (5) The board of appeals may impose whatever additional requirements it deems necessary to accomplish the purposes herein stated, and such requirements, in addition to those stated above, shall be considered as conditions of the special permit.

#### **Sec. 7-7. Visibility at intersections.**

In order to provide unobstructed visibility at intersections, no sign, fence, wall, hedge or other structure or planting of more than three (3) feet above the established street grade shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are twenty-five (25) feet distant from the point of intersection, measured along said street lines.

#### **Sec. 7-8. Accessory buildings and structures.**

Accessory buildings and structures, such as garages and tool sheds, shall be subject to the following regulations:

- (1) No accessory building or structure shall be located within any required front yard or within any side yard of a corner lot.
- (2) No accessory building or structure shall be located nearer than ten (10) feet to the principal building, unless such accessory building or structure is attached to the principal building.
- (3) No unattached accessory building or structure shall be located nearer than five (5) feet to any side lot line (side lots in this instance refer to a projected line starting from the front lot line, terminating at the rear lot line parallel five (5) feet from the side) or five (5) feet from the rear lot line.

The building area of such building or structure, excluding garages, shall not exceed one (1) percent of the lot area or one hundred twenty (120) square feet, whichever is greater, and shall not be located closer than ten (10) feet to any other building on the same lot or any abutting lot.

#### **Sec. 7-9. Lot in two districts.**

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

#### **Sec. 7-10. Swimming pools.**

(a) *General.* Pools used for swimming or bathing shall be in conformity with the requirements of this ordinance; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred fifty (250) square feet. For purposes of this ordinance, pools are classified as private swimming pools or public swimming pools.

(b) *Classification of pools.* Any pool intended to be used primarily for swimming for the use only of the occupants of a one- or two-family dwelling and their guests shall be designated as a private pool, primarily for swimming. Any pool which is not a private pool as defined above shall be classified as a public pool.

#### **(c) Permits.**

- (1) No swimming pool subject to the provisions of this ordinance shall be constructed, installed, enlarged or altered until a swimming pool permit has been obtained from the inspector of buildings.
- (2) The application for the permit for a pool shall be accompanied by two (2) copies of a plot plan showing the location of the pool and its relation to property lines and other structures upon the lot and names of abutters of adjoining property, one (1) copy of

which shall be filed with the inspector of buildings.

- (3) The application for the permit shall be accompanied by two (2) copies of the specifications and plans drawn to scale. The plans shall accurately show dimensions and construction of the pool, including vertical elevations and sections showing depth in sufficient clarity to clearly indicate the nature of the structure, and show all details necessary for conformance with the provisions of this ordinance.
- (4) Any inground pool shall have plans and specifications submitted with the seal and signature of a qualified registered professional engineer.
- (5) After the construction, installation, enlargement or alteration of a swimming pool subject to the provisions of this ordinance and before the installation of the required wiring for such a pool, a certificate of compliance shall be obtained from the inspector of buildings.

Before such a certificate of compliance can be obtained, one (1) copy of a new plot plan showing the location of the pool and its relation to property lines, required fencing and other structures shall be submitted to the inspector of buildings to show that the actual siting of the installed pool conforms to the locational requirements of this ordinance.

- (6) Upon receipt of the certificate of compliance, a wiring permit shall be obtained by a licensed electrician for the required wiring installation of a pool.
- (d) *Construction.* All pools shall be subject to the provisions of this ordinance and shall be constructed in a manner which is in conformity with the Massachusetts State Building Code, Section 422.0 as amended. No inground pool shall be located any less than ten (10) feet from any building foundation.
- (e) *Accessory structures.* All accessory structures, installations and equipment, such as showers, dressing rooms, equipment houses or

other buildings, shall comply with all applicable requirements of the Salem Zoning Ordinance.

(f) *Safety precautions.* Pools shall be surrounded on all sides with a permanent wall or fence at least four (4) feet high and located no further than twenty-five (25) feet from any side of the pool. Fences shall be constructed of pickets, or stockade or chain-link type material. Rail fences shall not be permitted. The fence shall have only one (1) opening, three (3) feet maximum in width, with a locking and closing device so as to keep the gate shut at all times.

(g) *Location.* No side of any pool shall be located less than six (6) feet from any rear or side property line, unless a special permit is obtained from the board of appeals. Pools shall conform to front yard setbacks as required for dwellings in Article VI of this ordinance.

(h) *Interpretation.* Swimming pools shall not be considered structures for purposes of the City of Salem Zoning Ordinance, and section 7-10 shall regulate the construction, installation, enlargement and alteration of all swimming pools within the City of Salem, independent of all other regulations contained in the City of Salem Zoning Ordinance.

#### Sec. 7-11. Sales of motor vehicles, boats, etc.

(a) Unless a license is issued by the licensing board, no new and/or used motor vehicles, including motorcycles, trailers as defined in this ordinance, boats and canoes of any description, motors including outboard motors may be displayed and/or sold or rented, regardless of ownership of same, from any building or lot within the city limits.

(b) This provision, however, shall not apply to any person who resides in R-C, R-1, R-2 and R-3 Districts, subject to the following provisions:

- (1) Only one (1) vehicle or item, as listed hereinbefore, may be displayed for sale in any twelve-month period.
- (2) The registered owner must reside in and be the owner of the property on which the vehicle for sale is displayed. Persons of the first degree of kindred permanently residing

in the dwelling unit may be included in this interpretation.

- (3) No vehicle for sale shall be permanently displayed on the street at any time, nor shall it be permanently displayed or parked in any front yard area. Refer to section 2-2 herein for the definition of front yard.
- (4) Only one (1) "For Sale" sign, which shall not exceed one and one-half (1½) square feet in area, may be displayed. This sign must be located on the interior side of the front or rear window.

**Sec. 7-12. Roofing over or enclosing existing porches, etc.**

In certain instances, the inspector of buildings may issue building permits to repair, rebuild, roof over or enclose existing porches, terraces, outside stairs, and similar appurtenances to dwellings, regardless of the setback requirements as listed in Table I following Article VI herein, provided the following conditions are met:

- (1) The appurtenant structure to be enclosed and/or roofed over existed before August 27, 1965.
- (2) No portion of the roofed-over or enclosed structure shall be nearer than five (5) feet to any side or rear lot line. There shall be no restriction insofar as front yard setbacks are required, provided, however, the roof or enclosure does not extend beyond the original structure.
- (3) The roofing over and/or enclosing of the structure, in the opinion of the building inspector with the cooperation of the chief of the fire department and the board of health, will not be a hazard to the safety or well-being of the general neighborhood.
- (4) If the appurtenant structure to be enclosed and/or roofed over was constructed after August 27, 1965, it may be so enclosed if, in the opinion of the building inspector with the concurrence of the chief of the fire department and board of health, it will not be a hazard to the safety or well-being of the general neighborhood.

**Sec. 7-13. Religious or educational institutions.**

No portion of this zoning ordinance shall be interpreted to regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth of Massachusetts or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided, however, that such land or structures must comply with all the requirements of the zoning ordinance concerning the bulk and height of structures, yard size, lot area, setbacks, open space, parking and building coverage requirements of the zoning district in which it is located.

**Sec. 7-14. Cluster residential development.**

(a) Purposes. For the purposes of promoting the more efficient use of land in harmony with its natural features and with the general intent of the zoning ordinance and to protect and promote the health, safety, convenience and general welfare of the inhabitants of the city, an owner or owners of a tract of land situated within the R-1 One-Family Residential Districts, R-C Residential Conservation Districts, R-2 Two-Family Residential Districts and R-3 Multifamily Residential Districts or a duly authorized agency thereof may, in connection with the submission of a subdivision plan for planning board approval under the Subdivision Control Law or, if no such approval is required, after consultation with the planning board, make application to the planning board for a special permit excepting his plan from the lot area and frontage requirements of Article VI herein.

(b) Any petition filed for a cluster residential development under this section shall be accompanied by five (5) copies of a site plan, which shall be at a scale to be established by the planning board, and shall include five (5) copies of all the information required for a definitive plan under section III B of the subdivision regulations of the planning board of the City of Salem, and such petition shall also be accompanied by five (5) copies of an environmental impact statement as set out in Appendix A of the subdivision regulations of the planning board of the City of Salem.

(c) The planning board shall, within seven (7) days after receipt of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. Notice of the filing of the petition shall be given to the city clerk, fire department, police department, superintendent of streets and school department and further notice shall be given as required by the planning board, and a public hearing shall be held within sixty-five (65) days after filing of an application in accordance with Massachusetts General Laws, Chapter 40A.

(d) Failure by the planning board to take final action upon an application for a special permit within ninety (90) days following the date of the public hearing shall be deemed to be a grant of the permit applied for.

(e) After a notice and public hearing as set forth above, the planning board, by a two-thirds (2/3) vote, may grant such a permit, provided that:

- (1) No structure shall exceed two and one-half (2.5) stories.
- (2) As far as possible, the plan follows the natural contours of the terrain and respects the natural features of the site.
- (3) The proposed plan is in harmony with the purpose and intent of this ordinance and the master plan of the City of Salem and that it will promote the purposes of this section.
- (4) The area of the tract of land to be subdivided is not less than five (5) acres.
- (5) When the open land is added to the building lots, the total area shall be at least equal in area to the land area required by this ordinance or by law for the total number of units or buildings contemplated in the development for the zoning district.

(6) At least twenty (20) percent of the total tract area (of which at least fifty (50) percent shall not be wetlands or slopelands, nor shall it include streets, ways and parking areas) shall be set aside as common land and shall consist of usable open space.

(7) The cluster development would not result in a net negative environmental impact.

(f) Provisions shall be made so that usable open space shall be owned:

- (1) By the City of Salem for park, open space or conservation use;
- (2) By a corporation or trust owned or to be owned by the owners of lots or residential units within the land that may be approved by the planning board, with provisions for limited easements for recreational use by residents of the city; provided that such ownership shall vest in sufficient rights to enable it to enforce compliance with the restrictions imposed by the planning board as conditions of its special permit.

(g) The planning board may, in appropriate cases as it determines, impose further restrictions upon the cluster residential development or parts thereof as a condition to granting the special permit.

(h) Any special permit granted hereunder shall lapse within two (2) years if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

#### **Sec. 7-15. Planned unit development.**

(a) The planning board may grant a special permit for a planned unit development for any parcel of land in the following districts:

- R-3 Multifamily Residential District;
- B-1 Neighborhood Business District;
- B-2 Highway Business District;
- B-4 Wholesale and Automotive Business District;
- B-5 Central Development District;

**I Industrial District;**

provided that said parcel contains a minimum of the lesser of sixty thousand (60,000) square feet or five (5) times the minimum lot size of the zoning district it is in, and subject to the requirements and conditions set out in this section.

(b) Purpose. The planned unit development district is designed to provide various types of land use which can be combined in compatible relationship with each other as part of a totally planned development. It is the intent of this district to ensure compliance with the master plan and good zoning practices, while allowing certain desirable departures from the strict provisions of specific zone classifications. The advantages which are intended to result from the application of the planned unit development district are to be ensured by the adoption of a precise development plan with a specific time limit for commencement of construction.

(c) All uses or any combination thereof permitted in R-3, B-1, B-2, B-4, B-5 and I Districts may be allowed in a planned unit development, subject to the following limitations of uses:

- (1) There can be a multiplicity of types of residential development, provided that, at the boundaries with existing residential development, where typical development is permitted, the form and type of development on the planned unit development site boundary are compatible with the existing or potential development of the surrounding neighborhoods.
- (2) A specific commercial or industrial use for property adjacent to an existing commercial or residential zone may be approved as a planned unit development. Where this is permitted, the plan for the total property shall be submitted and the applicant shall clearly detail, by engineering and architectural specifications and drawings, the manner in which the subject area is to be developed and the means that will be employed to protect the abutting property and the health, safety, welfare and privacy enjoyed thereon.
- (3) Maximum bulk, yards, parking and loading requirements shall be established for each

planned unit development district by the development plan approved by the planning board. Height limitations shall be in accordance with the zoning district in which the planned unit development is located.

- (4) Minimum lot frontage. To preserve and protect the value of properties adjacent to a proposed planned unit development district and to provide for an orderly and uniform transition, lots which will be adjacent or across the street from existing residential developments shall be required to provide an amount of street frontage not less than that of existing lots but not greater than minimum ordinance requirements for the zone in which they are located.
- (5) Minimum lot size. Residential lot sizes in a planned unit development district may be reduced below the minimum standards required by the zoning ordinance. As a prerequisite, the developer shall demonstrate that there is a reasonable relationship between the proposed lot size and the usable and accessible open area within the total development. An individual lot shall be large enough to provide for private open space associated with the living accommodations.

(d) Any petition filed for a planned unit development under this section shall be accompanied by five (5) copies of a site plan, which shall be at a scale to be established by the planning board and shall include five (5) copies of all the information required for a definitive plan under section III B of the subdivision regulations of the planning board of the City of Salem, and such petition shall also be accompanied by five (5) copies of an environmental impact statement as set out in Appendix A of the subdivision regulations of the planning board of the City of Salem.

(e) The planning board shall, within seven (7) days after receipt of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final

action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. Notice of the filing of the petition shall be given to the city clerk, fire department, police department, superintendent of streets and school department and further notice shall be given as required by the planning board, and a public hearing shall be held within sixty-five (65) days after filing of an application in accordance with Massachusetts General Law, Chapter 40A.

(f) Failure by the planning board to take final action upon an application for a special permit within ninety (90) days following the date of the public hearing shall be deemed to be a grant of the permit applied for.

(g) After notice and public hearing as set forth above, the planning board, by a two-thirds ( $\frac{2}{3}$ ) vote, may grant such a permit provided that:

- (1) The proposed planned unit development is in harmony with the purposes and intent of this ordinance and the master plan of the City of Salem and that it will promote the purpose of this section.
- (2) The mixture of uses in the planned unit development is determined to be sufficiently advantageous to render it appropriate to depart from the normal requirements of the district.
- (3) The planned unit development would not result in a net negative environmental impact.

(h) Provisions shall be made so that usable open space shall be owned:

- (1) By the City of Salem for park, open space or conservation use;
- (2) By a corporation or trust owned or to be owned by the owners of lots or residential units within the land that may be approved by the planning board, with provisions for limited easements for recreational use by residents of the city; provided that such ownership shall vest in sufficient rights to enable it to enforce compliance with the re-

strictions imposed by the planning board as conditions of its special permit.

(i) The planning board may, in appropriate cases as it determines impose further restrictions upon the planned unit development or parts thereof as a condition to granting the special permit.

(j) Any special permit granted hereunder shall lapse within (2) years if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

#### **Sec. 7-16. Wetlands and flood hazard districts.**

(a) *Purpose.* The purpose of this section is:

- (1) To protect the health and safety of the occupants of lands subject to seasonal or periodic flooding.
- (2) To protect persons and property from hazard and loss through the regulation of future development of lands adjoining watercourses.
- (3) To preserve the natural flood-control characteristics and the water storage capacity of wetlands and floodplains and to protect against pollution and contamination of such water supplies and to conserve valuable habitats for wildlife, including fisheries and shellfisheries.
- (4) To ensure the control and containment of sewage, and the safety of gas, electric, fuel and other utilities from breaking, leaking, shortcircuiting, igniting or any other damage due to flooding.

(b) *Definitions.* The wetlands and flood hazard districts shall be considered as overlying any other district established by this ordinance, and any use permitted in the portions of the district so overlaid may be permitted as an exception if authorized by a special permit by the planning board (see subsections (d) and (e) below).

- (1) Wetlands are meadows, marshes, swamps, bogs and areas of flowing or standing water and the saline water contiguous with the



shoreline. Wetlands are characterized by the presence of wetland soils and of plant communities which require the presence of water at or near the ground surface for a significant portion of the year. Specifically, the wetlands district is designated as follows:

- a. The areas designated on the maps titled "Wetland Areas of Salem, Massachusetts," Nos. 01 through 31, prepared by Dr. Jerome Long, dated March 15, 1977, on file with the city clerk, which are incorporated herein by reference, including those areas designated as buffer zones. The boundaries of this wetlands district shall be determined by the scaling distances on said maps.
  - b. All saline waters and land from the mean high tide seaward to the municipal boundaries. Mean High Tide is elevation 8.8 feet Mean Low Water (4.44 feet Mean Sea Level).
- (2) The flood hazard district follows the boundaries of the one hundred-year floodplain, which is defined as the relatively flat lowland which adjoins a watercourse or other body of water and which is subject to periodic flooding by the watercourse or waterbody at a storm frequency of one (100) years. Specifically, the flood hazard district is defined as all areas designated as flood hazard areas (Zones A, A3, V3) as shown on the maps titled, "Federal Emergency Management Agency, Flood Insurance Rate Maps, Nos. 01 through 06, City of Salem, Massachusetts," dated March 15, 1977, as amended, on file with the city clerk, which are incorporated herein by reference or as may be amended\*.

The flood hazard district affected by coastal flooding (Zones A3, V3) are based on elevation 14.36 feet mean low water, 10.0 mean sea level. Boundary lines trace this elevation contour. Where it can be properly

\*Editor's note—As stated in subsection (i) of this section, an asterisk \* indicates that the provisions are minimum HUD requirements for floodplain management.

shown that land is above this elevation, that land shall not be considered as being included in the district.

Any proposed use to be located within the limits of these districts, as determined by the inspector of buildings under Article IX of this ordinance, shall be governed by all regulations of this section as well as all other applicable provisions of this ordinance. Where the inspector of buildings is unable to determine the exact location of the boundaries of the districts, the planning board, with the assistance of the city engineer and the conservation commission, shall make the necessary interpretation.

(c) *Permitted uses.* The wetlands and flood hazard districts shall be considered as overlying other zoning districts. Any uses permitted in the portions of the zoning districts so overlaid may be permitted as an exception if authorized by special permit by the planning board (see subsections (d) and (e) below). In the wetlands and flood hazard districts, the following uses are permitted as of right, provided that any and all permits, orders or approvals required by state or federal law shall have been obtained:

- (1) Conservation of soil, water, plants and wild life, including wildlife management shelters.
- (2) Outdoor recreation, including play areas, nature study, boating, fishing and hunting where otherwise legally permitted.
- (3) Noncommercial signs (as permitted in the underlying district), wildlife management areas, foot, bicycle and/or horsepaths and bridges, provided such uses do not affect the natural flow pattern of any watercourse.
- (4) Agriculture of all types including, but not limited to, grazing, crop farming, nurseries, truck gardening and harvesting of crops.
- (5) Forestry, including landscaping and accessory uses such as flower or vegetable gardens, lawns and fences.
- (6) Temporary nonresidential structures used in connection with fishing or growing, harvesting, storage or sale of crops raised on the premises.

- (7) Unpaved accessways or unpaved accessory parking lots, substantially at grade, which are not needed in conjunction with vehicle or machinery sales, repairs or storage.
- (8) Private paved driveways serving a single-family residence where alternative means of access are inappropriate and not reasonably feasible.
- (9) For single-family detached dwellings, two-family dwellings, or duplex houses existing at the time this section is enacted, the expansion of these (or their accessory) uses to a maximum of fifteen (15) percent of that portion of the lot covered when this section is enacted, provided that such expansions conform to all other provisions of this ordinance and do not constitute substantial improvement of a structure. Substantial improvement means any repair, reconstruction or improvement of a structure; the cost of which equals or exceeds fifty (50) percent of the actual market value of the structure either (a) before the improvement is started or, (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration, restoration or rehabilitation (but not expansion) of a structure listed on the National Register of Historic Places or State Inventory of Historic Places. Structures erected or expanded under this subsection shall use construction materials and utility equipment that are resistant to flood damage and construction methods and practices that will minimize flood damage in accordance with the Massachusetts State Building Code.\*

(d) *Special permit uses.* In the wetlands and flood hazard districts, no structure or building, including pipes and wells, shall be erected, constructed, substantially improved, enlarged or otherwise created or moved; no area shall be paved; no earth or other material shall be stored, dumped used as fill, excavated or transferred; and no sediment shall be caused to be discharged from or onto a wetland, unless all the following conditions are found to exist as part of the granting of a special permit by the planning board:

- (1) The proposed use will comply in all respects to the uses and provisions of the underlying district in which the land is located.
- (2) There are adequate convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property, particularly in the event of flooding of the lot(s) or adjacent lot(s) caused by either overspill from water-bodies or high runoff.
- (3) Utilities, including gas, electricity, fuel, water and sewage disposal, shall be located and constructed so as to protect against breaking, leaking, shortcircuiting, grounding or igniting or any other damage due to flooding.\*
- (4) The cumulative effect of the proposed development or use, when combined with all other existing and anticipated development and uses, will not obstruct or divert flood flow; substantially reduce natural flood-water storage capacity in the local drainage area; destroy valuable habitat for wildlife, including fisheries or shellfisheries; adversely affect groundwater resources or increase stormwater runoff velocity so that water levels on other land are substantially raised or the danger from flooding increased.

Further, in the wetlands district only, the planning board shall also find the following conditions to be fulfilled:

- (5) The proposed development or use shall not include the storage of salt, chemicals, petroleum products or other contaminating substances or discharge of any polluting liq-

uids or materials into streams, brooks or wetlands. (The polluting effects of substances on the wetlands are to be gauged by the "Rules and Regulations for the Establishment of Minimum Water Quality Standards and for the Protection of the Quality and Value of Water Resources" of the Commonwealth of Massachusetts.)

- (6) The floor levels of areas to be occupied by human beings as living or work spaces shall be four (4) feet or more above the seasonal high water table.
- (7) If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.
- (8) If the lot is to be served by an on-lot septic system, the leaching area designed for use, as well as a reserved area for future expansion or total future use, shall be plotted with dimensions on the site plan, and the leaching areas shall not be constructed where the seasonal high water table is less than four (4) feet below the bottom of the leaching areas.

Further, in the flood hazard district only, the planning board shall also find the following conditions to be fulfilled:

- (9) The floor of the basement or, if none, the lowest floor of new construction or substantial improvement of structures for residential uses shall be at or above the 100-year flood level.\*
- (10) The floor of the basement or, if none, the lowest floor of new construction or substantial improvement of structures for nonresidential uses shall be at or above the one-hundred-year flood level or the structures shall be floodproofed to that level in compliance with the applicable requirements of the Massachusetts State Building Code.\* Floodproofing measures shall ensure that

the structure is watertight and that structural components have the capability of resisting hydrostatic and hydrodynamic load and the effects of buoyancy.

Further, where the proposed use will be located within a coastal high hazard area (Zone V3 on the FIA Flood Insurance Rate Maps), the planning board shall also find the following conditions to be fulfilled:

- (11) New structures or substantial improvements shall be located landward of the reach of mean high tide.\*
- (12) New structures or substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the one hundred-year flood level. Space below the lowest floor shall be free of fixed obstruction.\*
- (13) The support of new structures or substantial improvements shall not be, in whole or in part, by the use of fill.\*

(e) *Special permit procedure.* Any person(s) desiring such a special permit shall file an application in five (5) copies to the planning board and one (1) copy to the city clerk, which shall comply with the following submittal requirements:

- (1) A site plan at a scale of one (1) inch equals twenty (20) feet shall be prepared by a registered land surveyor or registered professional engineer and shall show at least the following:
  - a. Lot lines within which the development is proposed and the tie-in to the nearest road intersection;
  - b. The location, boundaries and dimensions of each lot in question;
  - c. Two-foot contours of the existing and proposed land surface;
  - d. Location of existing and proposed structures, watercourses, drainage and drainage easements, means of access, utilities, and sewer disposal facilities

including leaching fields, if any. Proposed elevations should be noted.

- (2) In the wetlands district, a determination by a qualified engineer of the seasonal high water table, performed during the last two (2) weeks of March or the first three (3) weeks of April. A minimum of two (2) percolation tests for each leaching area shall be performed.
- (3) A written report describing the proposed development or use relative to each of the conditions of subsection (d) above.
- (4) In cases of floodproofing or pile construction, certification by a registered professional engineer or architect as to the elevation of floodproofing measures and as to compliance with the applicable sections of the Massachusetts State Building Code concerned with flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood.\* Where specific methods or techniques have been previously certified, the planning board may waive this requirement.
- (5) A list of federal, state and other local permits required of the applicant.

The planning board shall, within seven (7) days after the filing of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. The planning board shall hold a public hearing on said application as soon as possible after receiving the above reports, in accordance with Chapter 40A of the Massachusetts General Laws. The planning board shall notify the applicant in writing of its decision on the special permit. The decision shall document the proposed development or use and the grounds for granting or refusing the special permit. The planning board

may, as a condition of approval, require that the applicant give effective notice to prospective purchasers, by signs or by recording the special permit at the registry of deeds, of the wetland or flood hazard conditions associated with said premises and the steps undertaken by the petitioner or his successor in title to alleviate the effects of same.

(f) *Area and yard regulations.* The portion of any lot within the wetlands and/or flood hazard districts may be used to meet the lot area, open space and yard requirements for the underlying zoning district in which the lot is situated without application for a special permit.

(g) *Variances.* A variance may be granted from the provisions of this section in accordance with the terms of this zoning ordinance and with the terms of Massachusetts General Laws, Chapter 40A, Section 10, but only upon the following additional terms and conditions:

- (1) A special permit has been applied for in accordance with this section and has been denied.
- (2) The board of appeals shall only grant a variance from the provisions of this section upon:
  - a. A showing of good and sufficient cause;\*
  - b. A determination that failure to grant a variance would result in exceptional hardship to the applicant;\*
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;\* and
  - d. A determination that the variance is the minimum necessary to afford relief.\*
- (3) Along with the petition for a variance hereunder, the petitioner shall file:
  - a. A written report describing the proposed development or use relative to the conditions in this subsection (g);

- b. The special permit application as filed with the planning board;
- c. A copy of the planning board decision relative to the special permit.

The board of appeals shall establish a hearing on the petition under the provisions of Chapter 40A of the Massachusetts General Laws and in accordance with the board's administrative rules, section 9-3 of this ordinance, and shall notify the planning board, city engineer, board of health, conservation commission and historical commission of said hearing. The board of appeals shall notify the applicant in writing of its decision on the petition. In the event a variance is granted, the board shall document in its decision the nature of the variance from the provisions of the wetlands and flood hazard districts as well as the grounds for its granting. A variance from the flood hazard district shall include the following statement:

"The construction of a structure below the base flood level increases risks to life and property and will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage."\*

The board of appeals shall, as a condition of the variance, require that a copy of the variance be recorded by the applicant at the registry of deeds.

(h) *Annual report.* The planning board shall maintain a file of all applications for special permit or variance under the flood hazard district and shall summarize these in its annual report. The summary shall be in a format acceptable to HUD, and a copy of said report shall be sent to the following agencies:

Flood Insurance Program  
Dept. of HUD  
15 New Chardon Street  
Boston, Massachusetts 02114

Federal Insurance Administrator  
Dept. of HUD  
451 Seventh St. SW  
Washington, D.C. 20410

(i) *Amendments to this section.* The adoption of floodplain management zoning is a requirement for Salem's continued participation in the flood

insurance program of the Department of Housing and Urban Development (HUD). The flood insurance program provides previously unavailable flood insurance protection to property owners in floodprone areas. The minimum HUD requirements for floodplain management are noted in this section by an asterisk(\*). Future amendments to this section shall comply with these requirements or any subsequent modifications to these requirements.

(j) *Application.* The provisions of this section are not intended to repeal, amend, abrogate, annul or interfere with any lawfully adopted ordinances, covenants, regulations or rules. However, where this section imposes greater restrictions, the provisions of this section shall govern.\*

#### **Sec. 7-17. Business Park Development District.**

(a) *Purpose.* The Business Park Development District is designed to provide encouragement for the development of land uses which will further the objectives of:

- (1) The creation of business and industry within the city.
- (2) Enhancement of the city's employment base.
- (3) Enhancement of the city's tax and revenue base. It is also the intent of this section to ensure compliance with the master plan and acceptable zoning practices.

(b) *Special permit.*

- (1) No development in excess of ten thousand (10,000) square feet of gross building area shall be allowed within the Business Park Development Zoning District without a business park development special permit from the planning board.
- (2) Any petition filed for a business park development under this section shall be accompanied by five (5) copies of a site plan, which shall be at a scale to be established by the planning board and shall include five (5) copies of all information required for a definitive plan under section III B of the subdivision regulations of the planning

board of the City of Salem, and such petition shall also be accompanied by five (5) copies of an environmental impact statement as set out in Appendix A of the subdivision regulations of the planning board of the City of Salem. The site plan shall also contain the following information:

- a. Location and dimensions of all building and other construction;
- b. Location and dimensions of all parking areas, loading areas, walkways and driveways;
- c. Location and dimensions of internal roadways and accessways to adjacent public roadways;
- d. Location and type of external lighting;
- e. Location, type, dimensions and quantities of landscaping and screening;
- f. Location and dimensions of utilities, including water, surface drainage, sewer and other waste disposal;
- g. Location of snow storage areas;
- h. Location of existing natural features, including ponds, bridges, streams and wetlands;
- i. Topography of the land at two-foot contours.

Such site plan shall also be accompanied by a brief narrative, as requested by the planning board, addressing these concerns in the following defined categories:

- j. Buildings;
- k. Parking and loading;
- l. Traffic flow and circulation;
- m. External lighting;
- n. Landscaping and screening;
- o. Utilities;
- p. Snow removal.

The planning board shall review such submitted information in accordance with accepted site planning standards and attempt to promote such standards and make certain that the development, if approved, take place in a manner which will in all aspects be an asset to the city. The planning board shall request changes in such plans and information submitted to promote the quality of the development and its impact upon the

health, safety, convenience and general welfare of the inhabitants of the city.

- (3) The planning board shall, within seven (7) days after receipt of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. Notice of the filing of the petition shall be given to the city clerk, fire department, police department, superintendent of streets and school department and further notice shall be given as required by the planning board, and a public hearing shall be held within sixty-five (65) days after filing of an application in accordance with Massachusetts General Laws, Chapter 40A.
- (4) Failure of the planning board to take final action upon an application within ninety (90) days following the date of the public hearing shall be deemed to be a grant of the permit applied for.
- (5) After a notice and public hearing as set forth above, the planning board, by a two-thirds (2/3) vote, may grant such a special permit provided that:
  - a. If the surrounding area is residential in nature or is land reserved for conservation use, or is land which the board determines to be appropriate for such a requirement, a seventy-five-foot buffer zone shall be provided on the parcel being proposed for development within which no construction or disturbance of land, excepting approved landscaping or screening, shall take place.
  - b. To enhance the quality of the development and to maintain adequate open

space, ten (10) percent of all land area must be maintained as open space. No construction of any kind shall take place in such area.

- c. Parking and loading requirements: Parking and loading requirements shall be met as defined in sections 7-3 and 7-4 of this article or as required by the planning board.
- d. Screening and landscaping: The proposed development shall properly screen all buildings, structures and other construction with vegetative landscaping, earth berms, fencing or other appropriate screening as determined by the planning board.
- e. Waivers and further conditions: The planning board may, in appropriate cases as it determines, impose further restrictions upon the business park development or parts thereof as a condition to granting the special permit and may waive any defined restrictions and requirements as deemed inappropriate by the planning board.
- f. Complementary and ancillary uses: In addition to the uses set out as permitted uses in the Business Park Development District in section 5-2, the development of other uses shall also be allowed at the discretion of the planning board, if the board determines that such use will complement existing and proposed uses and act as an acceptable ancillary use. Such other uses to be considered are as follows:
  - 1. Restaurants and other eating establishments;
  - 2. Hotels, motels and other lodging establishments.
- g. Adherence to Chapter 40A: In exercising its jurisdiction, the planning board shall conform to all requirements of procedure applicable under Massachusetts General Laws, Chapter 40A, as amended, and the Salem Zoning Ordinance.
- h. Two-year lapse: Any special permit granted hereunder shall lapse within

two (2) years if substantial construction thereof has not commenced by such date except for good cause.

#### Sec. 7-18. Site plan review.

(a) Purposes. For the purposes of protecting and promoting the health, safety, convenience and general welfare of the inhabitants of the city, promoting acceptable site planning practices and standards within the City of Salem and ensuring compliance with the City of Salem master plan and good zoning practices, notwithstanding any other provision of this ordinance to the contrary, no structure or premises exceeding ten thousand (10,000) square feet in nonresidential gross building area or containing six (6) or more residential dwelling units shall be constructed, reconstructed, enlarged, altered or used, except in accordance with a site plan submitted to and approved by the planning board in accordance with the request of this section.

(b) Any application for approval of a site plan review under this section shall be accompanied by five (5) copies of a site plan, which shall be at a scale to be established by the planning board and, according to the size of the development, shall include five (5) copies of all information required for a definitive plan under section III B of the subdivision regulations of the planning board of the City of Salem, and such petition shall also be accompanied by five (5) copies of an environmental impact statement as set out in Appendix A of the subdivision regulations of the planning board of the City of Salem, as requested. The plan shall contain the following information:

- (1) Location and dimensions of all buildings and other construction;
- (2) Location and dimensions of all parking areas, loading areas, walkways and driveways;
- (3) Location and dimensions of internal roadways and accessways to adjacent public roadways;
- (4) Location and type of external lighting;
- (5) Location, type, dimensions and quantities of landscaping and screening;

- (6) Location and dimensions of utilities, gas, telephone, electrical, communications, water, drainage, sewer and other waste disposal;
- (7) Location of snow storage areas;
- (8) Location of all existing natural features, including ponds, brooks, streams and wetlands;
- (9) Topography of the site, with two-foot contours;
- (10) Conceptual drawing of buildings to be erected, including elevations, showing architectural styles.

Such site plan shall also be accompanied by a brief narrative, as requested by the planning board, addressing these site plan requirements and other appropriate concerns in the following defined categories:

- (11) Buildings;
- (12) Parking and loading;
- (13) Traffic flow and circulation;
- (14) External lighting;
- (15) Landscaping and screening;
- (16) Utilities;
- (17) Snow removal;
- (18) Natural area protection and enhancement;
- (19) Compatibility of the architecture of the proposed development with existing architecture of the surrounding area.

The planning board shall review such submitted information in accordance with accepted site planning standards and attempt to promote such standards and make certain that the development, if approved, takes place in a manner which shall in all aspects be an asset to the city. The planning board shall request changes in such plans and information submitted to promote the quality of the development and its impact upon the health, convenience and general welfare of the inhabitants of the city. The planning board shall review

and amend all such submitted plans in accordance with the following criteria:

- (20) Adequacy of parking facilities and number of parking spaces proposed for each development;
- (21) Adequacy of loading facilities;
- (22) Adequacy of traffic circulation system;
- (23) Adequacy of access points and routes to and from the land parcel to adjoining streets and ways;
- (24) Adequacy of type and amount of external lighting to be provided on the parcel;
- (25) Adequacy of type, quality and quantity of landscaping to promote an aesthetically pleasing environment and to properly screen the development from adjacent land uses;
- (26) Adequacy of type, quality and quantity of vegetative screening to protect adjacent and nearby land parcels from structures not aesthetically pleasing or wholly compatible with such parcels;
- (27) Adequacy of the methods of disposal of sewage, refuse and other waste;
- (28) Adequacy of the method of surface drainage across and from the site;
- (29) Adequacy of the method of water distribution to and from the parcel and its structures;
- (30) Adequacy of pedestrian circulation systems to and from parking areas and structures;
- (31) Adequacy of protection or enhancement of natural areas;
- (32) Compatibility of the architecture of structures with the architecture of surrounding or nearby buildings.

(c) The planning board shall, within seven (7) days after receipt of said application, transmit one (1) copy of said application and plan to the inspector of buildings, city engineer, board of health and conservation commission, who may at their discretion investigate the application and report in writing their recommendations to the planning



board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without a submission of a report. Notice of the filing of the application shall be given to the city clerk, fire department, police department, superintendent of streets and school department and further notice shall be given as required by the planning board, and a public hearing shall be held within sixty-five (65) days after filing of an application in accordance with Massachusetts General Laws, Chapter 40A.

(d) Failure of the planning board to take final action upon an application within ninety (90) days following the date of the public hearing shall be deemed to be a grant of the approval applied for.

(e) After a notice and public hearing as set forth above, the planning board, by a two-thirds ( $\frac{2}{3}$ ) vote, may approve the plan provided that:

- (1) The proposed development shall properly screen itself, its buildings, structures and other construction with vegetative landscaping, earth berms, fencing or other appropriate screening as determined by the planning board.
- (2) To protect the quality of the surrounding area and environment, if such surrounding area is residential in nature, is land reserved for conservation use or is land which the board determines to be appropriate for such a requirement, a buffer zone shall exist along the property line within which no construction or destruction of land shall take place. The size of such zone shall be determined by the planning board according to the size of the proposed development, the land uses of the surrounding area, the aesthetic aspects of the proposed development, and all impacts of the proposed development upon such surrounding areas which can be alleviated through such a buffer zone.
- (3) In specific instances where the planning board deems such to be appropriate, it shall assess the compatibility of the architecture

of a proposed development with the architecture of surrounding structures and land uses and may request alterations to the architecture of such proposed development to ensure compatibility.

- (4) The planning board may, in appropriate cases as it determines, impose further restrictions upon the development or parts thereof as a condition to granting the approval and may waive any defined restrictions.

(f) In exercising its jurisdiction, the planning board shall conform to all requirements of procedure applicable under the Massachusetts General Laws, Chapter 40A, as amended, and the Salem Zoning Ordinance.

(g) Any approval granted hereunder shall lapse within two (2) years if substantial construction thereof has not commenced by such date except for good cause.

#### Sec. 7-19. Entrance Corridor Overlay District.

(a) *Purpose.* The purpose of the Entrance Corridor Overlay District is to augment underlying zoning regulations in designated areas to:

- (1) Protect and enhance the major entranceways into the city; and
- (2) Ensure that such areas are improved in a manner which is in the best interest of the city.

(b) *Applicability.*

- (1) The Entrance Corridor Overlay District shall be established along the corridors designated on the zoning map. The boundaries of the overlay shall be interpreted as following the rear lot lines of properties fronting on the corridor or along a line one hundred fifty (150) feet from the centerline of the corridor, whichever is less.
- (2) Properties within such district shall be controlled by the regulations of the underlying zoning districts, except as hereunder specified. In instances of conflicting require-

ments, the restrictions listed below shall prevail.

- (3) The requirements of this section shall not apply to Planned Unit Development (PUD) proposals, or those development proposals which are required to obtain a site plan review special permit.

(c) *Dimensional and other requirements.* The following requirements shall apply to all properties in the Entrance Corridor Overlay Districts:

- (1) *Fences.* In order to maintain and maximize aesthetic views and sight lines, all fences along the front and side lot lines shall comply with the following standards:
  - a. No fence along a front or side lot line shall be more than four (4) feet in height, as measured from the curb level of the street, or average grade elevation of the land where the fence is to be located, whichever is deemed appropriate.
  - b. Chainlink and wire fences are prohibited along front and side lot lines.
  - c. Any fence constructed within an Entrance Corridor Overlay District shall require a fence permit issued by the city building department.
- (2) *Curb cuts.* Only one (1) curb cut of no greater than twenty-four (24) feet shall be permitted for all residential uses. A maximum of two (2) curb cuts no greater than twenty-four (24) feet each shall be permitted for all commercial uses.
- (3) *Mechanical equipment and refuse storage areas.* No refuse storage areas or mechanical equipment areas shall be located in a front yard, nor within twenty-five (25) feet of the front lot line of the side yard. Such areas shall be screened from all public ways, parking areas, residential land uses and open space areas.
- (4) *Parking areas.* All parking areas of more than twelve (12) spaces shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets. The

requirements for such landscaping are as follows:

- a. Landscaping shall include one (1) tree of three and one-half-inch to four-inch caliper for each three (3) parking spaces. Trees shall be planted in plant beds bounded by six-inch granite curbing.
  - b. No plant bed shall be less than fifteen (15) square feet, and no dimension of such plant bed shall be less than three (3) feet.
  - c. A planting strip of no less than three (3) feet wide shall separate vehicles parked face to face in a parking area. Such planting strip shall include one (1) three and one-half-inch to four-inch caliper tree every twenty-seven (27) feet (in line with striping) and other appropriate landscaping.
- (5) *Signage.*
- a. A sign review committee, comprised of the following members, shall be established for the purpose of reviewing all signage proposed for an Entrance Corridor Overlay District:
    1. Building inspector or his designee;
    2. City planner or his designee; and
    3. Representative of the Salem Redevelopment Authority.
  - b. The sign review committee shall review the size, location, type of material and design of all signs located within an Entrance Corridor Overlay District.
  - c. The sign review committee shall follow the Salem Sign Ordinance, except that the sign review committee shall be allowed to limit the size of all signs within an Entrance Corridor Overlay District to one-half ( $\frac{1}{2}$ ) the size which is allowed in the underlying zone.
  - d. Approval by a simple majority of this committee is required prior to a sign permit being granted by the city.
- (6) *Site plan review.* All new construction over two thousand (2,000) square feet in nonresidential uses shall be required to be re-

viewed and approved under the provisions  
of site plan review by the Salem Planning  
Board.

## ARTICLE VIII. NONCONFORMITY

### Sec. 8-1. Intent.

(a) Within the districts established by this ordinance or amendments that may later be adopted, lots, structures and uses of land and structures exist which were lawful before this ordinance was passed or amended but which would be prohibited, regulated or restricted under the terms of this ordinance or future amendment.

(b) Nonconformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other prohibited structures or uses elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged by attachment on a building or premises of additional signs which are intended to be seen from off the premises or by the addition of other uses of a nature which would be prohibited generally in the district involved. Provided, however, and notwithstanding any other provisions of this ordinance to the contrary, an existing nonconforming building or use may be altered or enlarged in that use, subject to the granting of a permit therefor by the board of appeals as provided in section 9-4 herein.

(c) Nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building for which a building permit was issued prior to the notice of hearing before the planning board, provided that actual construction shall begin within six (6) months after the permit is issued and shall be diligently carried on until completion of the building. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(d) Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with pro-

tecting the public safety, upon order of such official.

(e) Any use for which a special permit is granted as provided in this ordinance shall not be deemed a nonconforming use.

### Sec. 8-2. Nonconforming lot.

Where a lot or lots exist which could not be built upon for residential purposes under the terms of this ordinance by reason of restrictions on lot area or lot width, such lot or lots may be used, subject to the following provisions:

- (1) Any increase in area, frontage, width, yard or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single- and two-family residential use which, at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then-existing requirements and had less than the proposed requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage. The provisions of this section shall not be construed to prohibit a lot being built upon if, at the time of the building, building upon such lot is not prohibited by the Salem Zoning Ordinance.
- (2) If two (2) or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership are of record less than five (5) years at the time of adoption of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, such lots may be built upon for single-family residential use within a period not exceeding five (5) years from the date of such recording, provided that the lots each have a minimum area of five thousand (5,000) square feet and a minimum frontage of fifty (50) feet.
- (3) If two (2) or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership are of record for more than five (5) years at the time of adoption of this ordinance, and if all or part

of the lots do not meet the requirements for lot width and area as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purpose of this ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance.

### **Sec. 8-3. Nonconforming use of land.**

Where use of land exists that is made no longer permissible under the terms of this ordinance or amendment, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) Such nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
- (3) If any such nonconforming use of land is discontinued for any reason for a period of twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

### **Sec. 8-4. Nonconforming structure.**

Where a structure exists which could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard dimensions, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity, except as provided for in section 8-6. In addition, such structure may not be

increased in height, except as provided for in section 8-6. However, if such structure used for single- or two-family residential purposes can be enlarged or altered in conformity with the lot coverage, front yard, side yard, rear yard and distance requirements of Table I of Article VI, said enlargement or alteration shall not be deemed an increase in the nonconformity of the structure and permissible even though the lot area and lot width are nonconforming.

- (2) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost or more than fifty (50) percent of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- (3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

### **Sec. 8-5. Nonconforming use of structure.**

If a use of a structure or a structure and premises in combination exists that would not be allowed in the district under the terms of this ordinance or amendment, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- (3) On any building devoted in whole or in part to any nonconforming use, work may be

done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten (10) percent of the current replacement value of the building, provided the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased.

- (4) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use, provided that the board of appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the provisions of this ordinance.
- (5) Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- (6) Any nonconforming use of land or structure and any nonconforming structure shall lose whatever rights might otherwise exist to its continuation under this section if said use or structure shall be abandoned or not used for a period of two (2) years or more.

**Sec. 8-6. Board of appeals; granting special permits.**

Notwithstanding anything to the contrary appearing in this ordinance, the board of appeals may grant special permits as authorized by section 5-3(j) and section 9-4 herein when the same may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this ordinance.

## ARTICLE IX. ADMINISTRATION

### Sec. 9-1. Enforcement.

This ordinance shall be administered and enforced by the inspector of buildings. For the purpose of such administration and enforcement, the following procedure shall apply:

- (1) No building or other structure shall be erected, moved, added to or structurally altered until a permit therefor has been issued by the inspector of buildings. All applications for such permits shall be in accordance with the requirements of the building code. No building permit shall be issued unless all the provisions of this ordinance have been complied with, except after written order from the board of appeals.
- (2) No land shall be occupied or used and no building or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure shall be used, occupied or changed in use until a certificate of occupancy shall have been issued therefor by the inspector of buildings, stating that the proposed use of the building or land conforms to the requirements of this ordinance. No building permit shall be issued until an application has been made for a certificate of occupancy. The certificate shall be issued in conformity with the provisions of this ordinance upon completion of the work.
- (3) No nonconforming structure or use shall be maintained, renewed, changed or extended until a certificate of occupancy shall have been issued by the inspector of buildings. The certificate of occupancy shall state specifically wherein the nonconforming structure or use differs from the provisions of this ordinance. Upon enactment or amendment of this ordinance, owners or occupants of nonconforming structures or uses shall have three (3) months to apply for certificates of occupancy. Failure to make such application within three (3) months shall be presumptive evidence that the property

was in conformity at the time of enactment or amendment of this ordinance.

- (4) The inspector of buildings shall maintain a record of all certificates of occupancy, and copies shall be furnished to any person having a proprietary or tenancy interest in the building affected.

### Sec. 9-2. Violations.

(a) Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and bases thereof, shall be filed with the inspector of buildings. He shall record promptly any such complaint, immediately investigate and take action thereon. The inspector of buildings shall also notify in writing the party requesting such enforcement of any action or refusal to act and the reasons therefor, within fourteen (14) days of receipt of such request.

(b) If the inspector of buildings shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

(c) Violation of any of the provisions of this ordinance shall constitute a misdemeanor. Any person who violates this ordinance shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) per violation and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

### Sec. 9-3. Board of appeals.

(a) A board of appeals is hereby established, which shall consist of five (5) members to be appointed by the mayor, subject to the confirmation

of the city council, each for a term of five (5) years and with the term of one (1) appointee expiring each year.

(b) The board shall elect annually a chairman from its membership, shall appoint a secretary and shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of the General Laws, Chapter 40A.

(c) The mayor, subject to the confirmation of the city council, may appoint associate members to the board of appeals. In accordance with Chapter 40A, no more than two (2) associate members may be on the board of appeals at any time, and their duties shall be as determined by Chapter 40A.

(d) The board of appeals shall have the following powers and duties:

- (1) To hear and decide appeals taken as provided in Chapter 40A of the General Laws.
- (2) To hear and decide applications for special permits for exceptions as provided in section 5-3 hereof, except such applications for special permits where the power to grant is vested in the planning board by this ordinance.
- (3) To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon a variance from the terms of the applicable zoning ordinance or by-law where, owing to conditions especially affecting such parcel or such building but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the appellant and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law, but not otherwise. In exercising the powers under this subsection (d)(3), the board may impose limitations both of time and of use, and a continuation of the use permitted may be conditioned upon compliance with regu-

lations to be made and amended from time to time thereafter.

- (4) If a variance is allowed, the board of appeals shall base its decisions solely and in accordance with all of the provisions of Chapter 40A. A copy of the board of appeals' decision, based upon the facts as outlined in Chapter 40A, shall be filed with the city clerk and a copy filed with the planning board within fourteen (14) days.

(e) The concurring vote of four (4) of the members of the board of appeals shall be necessary to reverse any order or decision of the inspector of buildings or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance.

(f) The decision of the board shall be made within seventy-five (75) days after the date of the filing of an appeal, application or petition, except in regard to special permits, failure by the board to act within said seventy-five (75) days shall be deemed to be the grant of the relief, application or petition sought.

(g) No variance or special permit, or any extension, modification or renewal thereof, shall take effect or be considered as granted until a copy of the decision, bearing the certification of the city clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant, and the board of appeals shall notify the applicant of his responsibility for filing with the registry of deeds.

#### Sec. 9-4. Special permits.

(a) In hearing and deciding applications for special permits, the board of appeals shall decide such questions as are involved in determining whether such special permit should be granted and shall grant special permits with such conditions and



safeguards as are appropriate under this ordinance or shall deny special permits when not in harmony with the purpose and intent of this ordinance. The board of appeals shall not have the power to grant any special permit where use of land or structure is specifically excluded from the district.

(b) The board of appeals may authorize the issuance of a special permit for a change to another nonconforming use of an existing nonconforming building or use or its alteration or enlargement, provided that the board finds that the use as changed, altered or extended will not depart from the intent of this ordinance and its prior use or degree of use; provided that such building or use is neither increased in volume nor area unreasonably.

(c) A special permit shall not be granted by the board of appeals unless and until written application for the special permit is made, stating the grounds on which such permit is requested and public notice and hearing is held in accordance with Chapter 40A and unless said application complies in all other respects with provisions of this zoning ordinance.

(d) Violation of such conditions and safeguards as are made a part of the terms under which the special permit is granted shall be deemed a violation of this ordinance.

(e) Failure by a special permit granting authority to take final action upon an application for a special permit within ninety (90) days following the date of public hearing shall be deemed to be a grant of the permit applied for.

(f) Construction or operations under a special permit shall conform to any subsequent amendment of this ordinance, unless the use or construction is commenced within a period of not less than six (6) months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

(g) Any special permit granted under this section shall lapse within two (2) years, and including such time required to pursue or await the determination of an appeal from the grant thereof, if a

substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

#### Sec. 9-5. Variances.

(a) In authorizing, upon appeal or petition in specific cases, a variance from the terms of this ordinance, the board of appeals shall determine that such variance will not be contrary to the public interest and that, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

(b) A variance from the terms of this ordinance shall not be granted by the board of appeals unless and until:

- (1) A written application for a variance is submitted, demonstrating that:
  - a. Special conditions and circumstances exist which especially affect the land, building or structure involved and which are not generally affecting other lands, buildings and structures in the same district;
  - b. Literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the appellant; and
  - c. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the district or the purposes of this ordinance.

- (2) Public notice and hearing is held, according to the rules of the board.

(c) In granting any variance, the board of appeals may impose limitations both of time and of use, and the continuation of the use permitted shall be conditioned upon compliance with regulations to be made and amended from time to time thereafter. Violation of such limitations and regulations shall be deemed a violation of this ordinance.

(d) Rights authorized by a variance that are not exercised within one (1) year of the date of the grant of such variance shall lapse.

#### **Sec. 9-6. Amendments.**

(a) The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed or repealed, provided, however, that no such action may be taken until after:

- (1) The planning board has given appropriate public notice and has held a public hearing, according to the provisions of the General Laws, Chapter 40A;
- (2) The planning board has submitted a final report with recommendations to the city council or until twenty-one (21) days shall have elapsed after such hearing without the submission of such report; and
- (3) The city council or a committee designated for the purpose has given appropriate public notice and held a public hearing, according to the provisions of the General Laws, Chapter 40A.

The city council may then adopt, reject or amend and adopt the proposed amendment, provided that, if the city council fails to act within ninety (90) days after its hearing, it shall not act thereon until after it holds a subsequent hearing with appropriate public notice.

(b) Amendment of this ordinance shall not become effective except by the favorable vote of two-thirds ( $\frac{2}{3}$ ) of the members of the city council and in accordance with the General Laws, Chapter 40A.

(c) A descriptive plot plan shall accompany all petitions to amend this ordinance for the purpose of changing the boundary lines of districts as shown on the zoning map. Such plan shall be filed with the city clerk, and a duplicate copy of such plan shall be filed with the planning board. The plan shall be drawn accurately, with ink on tracing cloth, at a scale (preferably at one (1) inch equals twenty (20) feet) sufficiently large to show clearly the following data:

- (1) The metes and bounds of the site;

- (2) All streets and other reference marks;
- (3) All outstanding topographical features;
- (4) All abutting lots, including the names and addresses of the present owners;
- (5) Any buildings or structures on the site and on abutting properties within three hundred (300) feet of the site; the first floor elevations of all building and/or structures shall be shown; and
- (6) All easements or other restrictions on the site.

The plan shall be prepared by a registered land surveyor, and his official stamp or seal shall be affixed to the plan.

(d) No proposed zoning ordinance amendment which has been unfavorably acted upon by the city council shall be considered by the city council within two (2) years after the date of such unfavorable action, unless the adoption of such proposed ordinance is recommended in the final report of the planning board.

#### **Sec. 9-7. Requirements for development permit.**

Any person acting in such a manner as to come within the definition of residential development use shall under this ordinance be required to apply for a development permit for this use from the planning board. Said permit shall be granted after the parcel under review has met the standards of issuance for residential development contained herein. If said application does not meet the standards for residential development contained herein, it shall be denied.

#### **Sec. 9-8. Procedure for development permit application.**

(a) *Preliminary application.* Prior to a formal application to the planning board for a development use permit, the developer may submit a preliminary application to the planning department in sufficient detail so that the application can be reviewed with respect to all standards set forth in section 9-9 of this article as to the availability of municipal services and facilities and projected improvements scheduled in the capital improvements

program of the city. The planning department shall, within ten (10) days thereafter, present such findings to the developer who may then decide, based upon these findings, to submit an application to the planning board for a development use permit.

(b) *Application for development permit.* Prior to the issuance of any building permit, the developer shall be required to submit an application to the planning board in sufficient detail so that the application can be reviewed with respect to all standards set forth in section 9-9 of this article as to the availability of municipal services and facilities and projected improvements scheduled in the capital improvements program of the city. In the case of single-family residences, a developer will be required to submit an application to the planning board, and approval of the application and issuance of a development permit will occur if the following standards are met:

- (1) An application will not be for more than three (3) single-family residences;
- (2) The single-family residences will not be a part of a larger-scale, planned or accepted subdivision or development.

In all other cases, the planning board, upon receipt of the application, shall proceed to give notice for a public hearing of the application, said notice to be not less than fourteen (14) days before the date of that hearing. The planning board shall, as necessary, request reports from appropriate city, county or other government agencies, boards or officials as relating to this application.

The planning board shall, within thirty (30) days after the conclusion of the public hearing but not later than sixty (60) days after receipt of the application, render a decision. If the planning board determines that said conditions have been met as determined by the standards of issuance for residential development use, it shall specify to the applicant in writing the details wherein said application meets such standards as required. If the planning board determines that said conditions have not been met as determined by the standards of issuance for residential development use, it shall specify to the applicant in writing the details wherein said application fails to meet such standards as required.

#### Sec. 9-9. Standards for issuance of development permit, residential development use.

No development permit shall be issued by the planning board for residential development, unless said parcel has available twelve (12) development points on the following scale of values:

##### *Sewerage*

Within ¼ mile of a major interceptor sewer*	8 points
Within ½ mile of a major interceptor sewer*	4 points
Beyond ½ mile of a major interceptor sewer*	0 points

\*Existing major interceptor sewers are those shown in Figure 11, page 27 of the "Housing in Salem" Report, prepared by the Salem Planning Department, May 8, 1974. Future major interceptor sewers are those labeled as Phase I, Items 7 and 8; Phase II, Items 1, 2, 3 and 4; and Phase III, Item 1 of "Updated Report on SEWERAGE AND DRAINAGE FOR THE CITY OF SALEM MASSACHUSETTS," prepared by C.E. Maguire, Inc., on February, 1974.

##### *Schools*

Within ¼ mile of public elementary school	4 points
Within ½ mile of public elementary school	3 points
Within 1 mile of public elementary school	1 point
Beyond 1 mile of public elementary school	0 points

##### *Waterbodies and Wetlands*

Beyond 200 feet of waterbodies and/or wetlands	4 points
Between 101 and 200 feet of waterbodies and/or wetlands	2 points
Within 100 feet of waterbodies and/or wetlands	0 points

Waterbodies and wetlands are as defined as Zone 1 in the "Conservation, Open Space and Recreation Plan for Salem, Massachusetts,"

prepared in 1973 and adopted by the Salem Conservation Commission, and accepted by the Department of Natural Resources on September 27, 1974.

#### *Fire Stations*

Within 1½ miles of a public fire station*	2 points**
Within 2½ miles of a public fire station	1 point
Beyond 2½ miles of a public fire station	0 points

\*The criteria used in determining these distances are from the American Insurance Association, and this information is available from the Salem Fire Department.

\*\*May be increased to two (2) miles for residential districts of one- and two-family dwellings and to four (4) miles when such dwellings have an average separation of one hundred (100) feet or more.

#### **Sec. 9-10. Vested approval of development permit.**

The planning board shall issue an approval of the application for development permit vesting a present right for the developer to proceed with development use of the land for such year as the proposed development meets the required points as indicated in the scheduled completion dates of the capital improvements program as amended, or failing to meet such points, then for the final year of the capital improvements program as amended. Any improvement scheduled in the capital improvements program more than one (1) year from the date of application shall be credited as though in existence as of the date of the scheduled completion. A developer may advance the date of authorization by agreeing to provide such improvements as will bring the development within the required number of points for earlier or immediate development. Such agreement shall be secured by either a cash deposit or surety bond sufficient to cover the cost of the proposed improvement, the form, sufficiency and amount of which bond and agreement shall be determined by the planning board.

#### **Sec. 9-11. Appeal for relief.**

Any developer who has applied for a development permit from the planning board and whose application has been denied or who has received vested approval on such application may appeal to the Salem Board of Assessors in conformance with Chapter 59, Section 59 of the Massachusetts General Laws for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and such assessed valuation on such land may be reduced as determined appropriate.

#### **Sec. 9-12. Documentation of development point values.**

The planning department shall prepare and maintain in a clear and up-to-date form maps and other necessary documents which specify development point values of all parts of the City of Salem.

#### **Sec. 9-13. Review of applications.**

The planning board shall review each year all denied applications for development permits, and in all cases where eligibility may have changed, the applicant shall be duly notified.

# **ARTICLE X. CERTIFICATE OF OCCUPANCY**

## **Sec. 10-1. Required; building permits.**

(a) No land shall be occupied or used and no building or structure erected or structurally altered after August 27, 1965, shall be occupied or used, in whole or in part, for any purpose until a certificate of occupancy has been issued by the building inspector stating that the building and use comply with the provisions of the zoning ordinance and of the building code of the City of Salem in effect at the time of issuance. No such certificate shall be issued unless the building and its use and its accessory uses and the uses of all premises are in conformance with the provisions of the zoning ordinance and of the building code at the time of issuance. Where a certificate of occupancy was not issued at the time when an occupancy or use permitted by the zoning ordinance and building code in effect at such time began, the building inspector may issue a validating certificate of occupancy retroactive to the beginning of the occupancy or use. A certificate of occupancy shall be conditional on the adequacy of parking space and other facilities as required by this ordinance and shall lapse if such space or spaces or facilities are used for other purposes.

(b) A certificate of occupancy shall be required for any of the following in conformity with the building code and the zoning ordinance:

- (1) Occupancy and use of a building hereafter erected or structurally altered.
- (2) Change in use of an existing building to a use of a different classification.
- (3) Change in character or the intensity of the use of land.
- (4) Any change in use of a nonconforming structure or use.

(c) In cases where a building permit is required, a certificate of occupancy shall be applied for at the time of the application for a building permit and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed if the proposed use of the building is permitted by this ordinance. In cases where a building

permit is not required, a certificate of occupancy shall be applied for prior to the happening of any of the events specified in subsection (b) hereof and shall be issued prior to any such change of use. Such certificates of occupancy shall be posted forthwith by the owner of the property in a conspicuous place on the premises involved for a period of not less than ten (10) days after issuance.

## **ARTICLE XI. ORDINANCE APPLICATION**

### **Sec. 11-1. Interpretation.**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, convenience, morals or welfare. Wherever the requirements of this ordinance are at variance with the requirements of any lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern.

### **Sec. 11-2. Separability.**

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the whole or any part thereof other than the part so decided to be unconstitutional or invalid.

### **Sec. 11-3. Repeal of conflicting ordinances.**

The ordinance entitled "An Ordinance Related to Zoning," adopted on August 1, 1955, together with all changes and amendments thereto, is hereby repealed. In addition, all ordinances or parts of ordinances in conflict with, or inconsistent with, the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

### **Sec. 11-4. Effective date.**

This ordinance shall become effective on August 27, 1965, and as subsequently amended, as provided by City Charter.

**ARTICLE XII. CONSTITUTIONALITY OF  
ORDINANCE**

**Sec. 12-1. Constitutionality; validity.**

If any provision of this ordinance is declared unconstitutional or illegal by final judgment, order or decree of the Supreme Judicial Court of the Commonwealth, the validity of the remaining provisions of this ordinance shall not be affected thereby.

# TABLE OF ZONING MAP AMENDMENTS

Ordinance Number	Adoption Date	Description
218	8-27-65	Zoning ordinance and map adopted
689	9- 2-69	Major revisions to zoning ordinance and map
709-B	8- 1-72	Central Development District B-5
903	12- 3-74	Ward 7: From R-1 and R-C to R-3 Districts
611	9-15-76	Derby Street change: From B-4 District to B-5
733	11- 9-76	Northey Street change: From I District to R-2
347	5-20-77	Derby and Congress Streets (Pickering property): From B-4 District to B-5
417	6-17-85	Business Park Development District map change
306-A	7- 1-85	Central Business District map change
1157	1-14-93	An area in Ward 1: from R-1 District to I



# DISPOSITION TABLE ZONING ORDINANCE

This table consists of Ordinance Number 218, the city's zoning ordinance, as originally adopted August 27, 1965, and as amended through December 26, 1990. The table first lists all amendments to the zoning ordinance prior to publication herein by ordinance number, date of adoption and a brief description thereof; then lists the major sections and subsections prior to publication herein and indicates their disposition within this publication. Amendments enacted subsequent to December 26, 1990, are listed in the disposition table for amendments following this table.

Ordinance Number	Adoption Date	Description
689	9- 2-69	Major revisions to zoning ordinance
414	5-28-74	Repeal of section relative to swimming pools
419	7-18-74	Residential density regulations, R-2 and R-3 Districts
690	1- 3-75	Density regulations, R-3 Districts, excluding housing for elderly (1974)
765	2- 3-75	Density regulations, maximum height of buildings, excluding housing for elderly (1974)
852	10-29-75	Controlled growth ordinance
163	6- 1-76	Swimming pool ordinance
153	3-14-77	Wetlands and flood hazard districts
285	5- 5-77	Amendments in compliance with Ch. 808, G.L.
286	5- 5-77	Cluster residential development
287	5- 5-77	Planned unit development
1063-A	3-24-81	Conversion of rental housing to condominiums (1980)
868-A	8- 2-83	Amusement District (1982)
47-A	4-30-84	Carriage houses
307	6-17-85	Flood hazard district
415	6-17-85	Site plan review
416	6-17-85	Business Park Development District
306	7- 1-85	Central Business District
1097-A	12-23-85	Delete inclusion of "water" in definition of land
725	10- 1-86	Accessory buildings
617-A	9-21-87	Variance in R-2 Districts for use in excess of two (2) dwelling units
1153	3-14-88	Residential density regulations, Salem State College (1987)
23	5- 9-88	Nonconforming structures, height limitations
611	9-18-89	Swimming pools not considered structures for purposes of zoning
	9-18-89	Nonconforming structures, enlargement to single- and two-family residential structures
	9-18-89	Roofing over or enclosing existing porches, etc.

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ZONING

ZONING ORDINANCE  
City of  
SALEM, MASSACHUSETTS

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 1157, adopted January 14, 1993.

See the Zoning Map Amendments Table for further information.

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## TABLE OF ZONING MAP AMENDMENTS

Ordinance Number	Adoption Date	Description
218	8-27-65	Zoning ordinance and map adopted
689	9- 2-69	Major revisions to zoning ordinance and map
709-B	8- 1-72	Central Development District B-5
903	12- 3-74	Ward 7: From R-1 and R-C to R-3 Districts
611	9-15-76	Derby Street change: From B-4 District to B-5
733	11- 9-76	Northey Street change: From I District to R-2
347	5-20-77	Derby and Congress Streets (Pickering property): From B-4 District to B-5
417	6-17-85	Business Park Development District map change
306-A	7- 1-85	Central Business District map change
1157	1-14-93	An area in Ward 1: from R-1 District to I

SUPPLEMENT NO. 2  
May 1995

## ZONING ORDINANCE

City of

SALEM, MASSACHUSETTS

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Amendment of December 10, 1994.

See the Zoning Map Amendments Table for further information.

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